

SENATE BUDGET REPORT
2005 SESSION OF THE GENERAL ASSEMBLY
(HOUSE BILL 267/SCS)

VOLUME I

Commonwealth Budget Summary
State/Executive Budget Summary
General and Special Parts and Sections

A. General Government

Legislative Research Commission
Office for Budget Review

February 28, 2005

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**SENATE BUDGET REPORT
2005 SESSION OF THE GENERAL ASSEMBLY
HOUSE BILL 267/SCS
GENERAL FUND BUDGET SUMMARY**

	FY 2003-2004						
	Actual	House	Senate	Difference	House	Senate	Difference
RESOURCES							
Undesignated Balance	162,478,300	249,475,000	249,475,000		241,569,300	232,198,500	(9,370,800)
Continued Appropriations Reserve							
Branch Regular	97,073,600	26,485,200	26,485,200		13,378,100	13,378,100	
Tobacco Settlement	76,356,200	42,947,500	42,947,500		5,252,400	5,252,400	
Budget Reserve Trust	5,087,400	50,764,800	50,764,800		50,764,800	50,764,800	
Reserve Subtotal	178,517,200	120,197,500	120,197,500		69,395,300	69,395,300	
Revenue							
Consensus Revenue Estimate	6,977,623,100	7,433,000,000	7,433,000,000		7,665,000,000	7,665,000,000	
Tobacco Settlement	109,483,000	108,800,000	108,800,000		108,600,000	108,600,000	
Revenue Measures					128,000,000	127,950,000	(50,000)
Revenue Subtotal	7,087,106,100	7,541,800,000	7,541,800,000		7,901,600,000	7,901,550,000	(50,000)
Fund Transfers	200,045,000	156,520,000	159,904,400	3,384,400	188,271,300	186,593,800	(1,677,500)
Federal Fiscal Relief	68,720,600						
Other Resources		16,855,500	16,855,500		31,786,700	32,786,700	1,000,000
Reconcile Resources to Controller	(100,000)						
TOTAL RESOURCES	7,696,767,200	8,084,848,000	8,088,232,400	3,384,400	8,432,622,600	8,422,524,300	(10,098,300)
APPROPRIATIONS							
Executive Budget (HB 267)							
Regular Operating	6,911,501,900	7,331,786,000	7,334,132,900	2,346,900	7,971,792,400	7,974,538,000	2,745,600
Necessary Government Expenditures	20,886,000		9,000,000	9,000,000			
Budget Reserve Trust / Surplus Plan	45,677,400						
Phase I Tobacco Settlement	86,951,400	108,800,000	108,800,000		108,600,000	108,600,000	
General Fund Capital	400,000	36,375,000	37,325,000	950,000	6,140,700	6,140,700	
Executive Subtotal	7,065,416,700	7,476,961,000	7,489,257,900	12,296,900	8,086,533,100	8,089,278,700	2,745,600
Continued General Fund	20,929,700	(1,243,800)	(1,243,800)		1,501,700	1,501,700	
Continued Tobacco	33,408,700	37,695,100	37,695,100		5,252,400	5,252,400	
Continued Budget Reserve Trust	(45,677,400)						
Total Executive	7,074,077,700	7,513,412,300	7,525,709,200	12,296,900	8,093,287,200	8,096,032,800	2,745,600
Judicial Budget							
Regular Operating (prior sessions)	208,354,900	220,255,700	220,255,700		230,971,500	230,971,500	
Regular Operating (HB 267)					1,077,400	1,077,400	
Continued	230,000	9,004,600	9,004,600				
Total Judicial	208,584,900	229,260,300	229,260,300		232,048,900	232,048,900	
Legislative Budget							
Regular Operating (prior sessions)	39,777,400	40,939,400	40,939,400		41,262,400	41,262,400	
Regular Operating (HB 267)					108,100	108,100	
Continued	4,654,700	5,346,200	5,346,200		6,251,800	6,251,800	
Total Legislative	44,432,100	46,285,600	46,285,600		47,622,300	47,622,300	
Special Bills			458,300	458,300			
Appropriations Subtotal	7,327,094,700	7,788,958,200	7,801,713,400	12,755,200	8,372,958,400	8,375,704,000	2,745,600
Budget Lapse / Savings		(15,074,800)	(15,074,800)		(11,164,000)	(10,000,000)	1,164,000
TOTAL APPROPRIATIONS	7,327,094,700	7,773,883,400	7,786,638,600	12,755,200	8,361,794,400	8,365,704,000	3,909,600
BALANCE	369,672,500	310,964,600	301,593,800	(9,370,800)	70,828,200	56,820,300	(14,007,900)
Continued Appropriations Reserve							
Branch Regular	26,485,200	13,378,100	13,378,100		5,624,600	5,624,600	
Tobacco Settlement	42,947,500	5,252,400	5,252,400				
Budget Reserve Trust	50,764,800	50,764,800	50,764,800		50,764,800	50,764,800	
Total Reserve	120,197,500	69,395,300	69,395,300		56,389,400	56,389,400	
UNDESIGNATED BALANCE	249,475,000	241,569,300	232,198,500	(9,370,800)	14,438,800	430,900	(14,007,900)

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SENATE BUDGET REPORT
2005 SESSION OF THE GENERAL ASSEMBLY
HOUSE BILL 267/SCS
OTHER BUDGETARY RESOURCES

TABLE I - OTHER BUDGETARY RESOURCES

	FY 2004-05			FY 2005-06		
<u>Source</u>	<u>House</u>	<u>Senate</u>	<u>Difference</u>	<u>House</u>	<u>Senate</u>	<u>Difference</u>
Abandoned Property Receipts (Notwithstanding KRS 393.015)	26,355,500	26,355,500		6,300,000	6,300,000	
Abandoned Property Receipts-Sale of Securities				33,586,700	33,586,700	
Abandoned Property Tobacco (Unclaimed Phase II supplement checks)					1,000,000	1,000,000
Mandate participation in Advanced Compliance Enforcement Service (ACES)				1,400,000	1,400,000	
KEES Reserve Account for Unclaimed Lottery Prize Funds	(9,500,000)	(9,500,000)		(9,500,000)	(9,500,000)	
Total Other Budgetary Resources	16,855,500	16,855,500		31,786,700	32,786,700	1,000,000

TABLE II - REVENUE MEASURES

	FY 2004-05			FY 2005-06		
<u>Source</u>	<u>House</u>	<u>Senate</u>	<u>Difference</u>	<u>House</u>	<u>Senate</u>	<u>Difference</u>
Eliminate Deduction of Income Tax Paid to Foreign Countries				3,600,000	3,600,000	
Restore Sales Tax to Unbundled Transmission of Natural Gas				7,000,000	7,000,000	
Limit Sales Tax Vendor Compensation to \$1,500 Per Reporting Period				7,400,000	7,400,000	
Tax Modernization				110,000,000	110,000,000	
Charter Bus Tax Exemption					(50,000)	(50,000)
Total Revenue Measures				128,000,000	127,950,000	(50,000)

TOTAL TABLES I AND II

16,855,500	16,855,500		159,786,700	160,736,700	950,000
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**SENATE BUDGET REPORT
2005 SESSION OF THE GENERAL ASSEMBLY
HOUSE BILL 267/SCS
BUDGET LAPSES AND OTHER SAVINGS**

	FY 2004-2005			FY 2005-2006		
Budget Lapses	House	Senate	Difference	House	Senate	Difference
Public Service Commission lapse of Continued Reserve	(1,807,300)	(1,807,300)	-			-
Total Budget Lapse	(1,807,300)	(1,807,300)	-	-	-	-
Other Savings						
Debt Service Refinance	(3,542,500)	(3,542,500)	-			-
Debt Service Substitution with Bond Investment Income	(9,725,000)	(9,725,000)	-			-
Debt Service Lapse (Payroll System project)			-	(1,164,000)	-	1,164,000
General Efficiencies			-	(10,000,000)	(10,000,000)	-
Total Other Savings	(13,267,500)	(13,267,500)	-	(11,164,000)	(10,000,000)	1,164,000
Total Budget Lapse / Savings	(15,074,800)	(15,074,800)	-	(11,164,000)	(10,000,000)	1,164,000

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SENATE BUDGET REPORT
2005 SESSION OF THE GENERAL ASSEMBLY
HOUSE BILL 267/SCS
FUNDS TRANSFERS (PART V)

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	FY 2004-2005			FY 2005-2006		
	House	Senate	Difference	House	Senate	Difference
GOVERNMENT OPERATIONS						
Office of State Budget Director	72,100	72,100	-			-
Governor's Office for Agricultural Policy - Tobacco Funds (KRS 248.703 (2)(b)(2))	27,000,000	27,000,000	-		2,500,000	2,500,000
Department of Veterans' Affairs - Agency Revenue Fund	275,000	275,000	-			-
Governor's Office for Local Development - County Cemetery Fund (KRS 67.872)	35,100	35,100	-			-
Local Government Economic Development Fund (KRS 42.4592)	-	2,980,000	2,980,000	-	-	-
Registry of Election Finance - Election Campaign Fund (KRS 121A.020)	539,600	539,600	-			-
Secretary of State - Limited Liability Companies (KRS 14.140)	2,384,800	2,202,800	(182,000)	1,000,000	1,000,000	-
Treasury - Unclaimed Property (KRS 393.250(1))	20,500	20,500	-			-
Agriculture	153,800	153,800	-			-
Accountancy (KRS 325.250)	-	107,800	107,800			-
Certification of Alcohol and Drug Counselors	-	5,000	5,000			-
Architects (KRS Chapter 323)	-	4,300	4,300			-
Board of Auctioneers (KRS 330.050 and 330.192)	-	27,100	27,100			-
Barbering (KRS 317.530)	-	17,300	17,300			-
Chiropractic Examiners (KRS 312.019)	-	27,900	27,900			-
Dentistry (KRS 313.350)	-	66,500	66,500			-
Embalmers and Funeral Directors (KRS 316.125 and KRS 316.210)	-	20,200	20,200			-
Licensure for Engineers and Land Surveyors (KRS 322.420)	-	288,000	288,000			-
Registration for Professional Geologists (KRS 322A.050)	-	44,600	44,600			-
Hairdressers and Cosmetologists (KRS 317A.050)	-	17,600	17,600			-
Specialists in Hearing Instruments (KRS 334.150)	-	2,600	2,600			-
Interpreters for Deaf and Hard of Hearing ((KRS 344.500 and KRS 163.506)	-	5,800	5,800			-
Examiners and Registration of Landscape Architects (KRS Chapter 323)	-	4,100	4,100			-
Licensure of Marriage and Family Therapists (KRS 335.342)	-	3,000	3,000			-
Medical Licensure (KRS 311.610)	-	52,500	52,500			-
Nursing (KRS 314.027 and 314.161)	-	442,700	442,700			-
Licensure for Occupational Therapy	-	15,000	15,000			-
Ophthalmic Dispensers (KRS 326.120)	-	2,000	2,000			-
Optometric Examiners (KRS 320.360)	-	6,200	6,200			-
Pharmacy (KRS 315.195)	-	90,500	90,500			-
Physical Therapy (KRS 327.080)	-	37,300	37,300			-
Podiatry (KRS 311.450)	-	400	400			-
Private Investigators (KRS 329A.0220)	-	2,000	2,000			-

SENATE BUDGET REPORT
2005 SESSION OF THE GENERAL ASSEMBLY
HOUSE BILL 267/SCS
FUNDS TRANSFERS (PART V)

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	FY 2004-2005			FY 2005-2006		
	House	Senate	Difference	House	Senate	Difference
Licensed Professional Counselors (KRS 335.520)	-	25,800	25,800			-
Proprietary Education (KRS 165A.380)	-	28,800	28,800			-
Examiners of Psychology (KRS 319.131)	-	37,300	37,300			-
Real Estate Appraisers (KRS 324A.065)	-	55,400	55,400			-
Real Estate Commission (KRS 324.286 and 324.410)	-	302,400	302,400			-
Respiratory Care (KRS 314A.215)	-	4,300	4,300			-
Social Work (KRS 335.140)	-	26,000	26,000			-
Speech Language Pathology and Audiology (KRS 334A.120)	-	2,200	2,200			-
Veterinary Examiners	-	51,100	51,100			-
Emergency Medical Services (KRS 311A.145)	-	-	-			-
Kentucky River Authority (KRS 151.720)	86,400	86,400	-			-
COMMERCE CABINET			-			-
Secretary - Agency Revenue Fund	80,000	80,000	-			-
Artisans Center - Agency Revenue Fund	20,000	20,000	-			-
Horse Park Commission - Kentucky Horse Park Fund	40,000	40,000	-			-
State Parks - State Parks Fund	110,000	110,000	-			-
State Fair Board - State Fair Board Fund	50,000	50,000	-			-
DEPARTMENT OF EDUCATION			-			-
Operations and Support Services - Agency Revenue Fund	102,200	102,200	-			-
School Districts Flexible Spending Account - Expendable Trust Fund	5,000,000	5,000,000	-	5,000,000	5,000,000	-
Learning and Results Services - Kentucky Successful Schools Fund	204,900	204,900	-			-
EDUCATION CABINET			-			-
Vocational Rehabilitation - Agency Revenue Fund	73,900	73,900	-			-
Unemployment Insurance - Penalty and Interest Account (KRS 341.835)	186,100	186,100	-			-
Education Professional Standards Board - Agency Revenue Fund	450,000	450,000	-			-
ENVIRONMENTAL AND PUBLIC PROTECTION			-			-
General Administration and Program Support - Agency Revenue Fund	500,000	500,000	-	500,000	500,000	-
Environmental Protection	351,400	351,400	-			-
Kentucky Pride Trust Fund	2,006,300	2,006,300	-	2,006,300	2,006,300	-
Natural Resources - Oil and Gas Well Plugging Fund (KRS 353.590)	500,000	-	(500,000)	500,000	-	(500,000)
Boxing and Wrestling Authority (KRS 229.250)	4,200	4,200	-			-
Petroleum Storage Tank Assurance Fund (KRS 224.60-130 to KRS 224.60-155)	291,200	291,200	-	63,471,400	63,471,400	-
Alcoholic Beverage Control (KRS 243.025)	1,009,700	1,009,700	-			-

SENATE BUDGET REPORT
2005 SESSION OF THE GENERAL ASSEMBLY
HOUSE BILL 267/SCS
FUNDS TRANSFERS (PART V)

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	FY 2004-2005			FY 2005-2006		
	House	Senate	Difference	House	Senate	Difference
Charitable Gaming (KRS 238.570)	191,200	191,200	-			-
Crime Victims' Compensation Fund (KRS 346.185)	1,500	1,500	-			-
Board of Claims - Agency Revenue Fund	147,200	147,200	-			-
Financial Institutions (KRS 286.425)	3,420,100	3,420,100	-	2,712,100	2,712,100	-
Horse Racing Authority (KRS 230.361 - 230.375)	49,600	49,600	-			-
Housings, Buildings and Construction (KRS 318.316)	90,100	90,100	-			-
Insurance	3,872,800	3,872,800	-	11,340,300	11,340,300	-
Insurance - Fire and Tornado Insurance Fund (KRS 56.180)	500,000	500,000	-	500,000	500,000	-
Kentucky Access (KRS 304.17B-003 and 304.17B-021)	9,932,900	9,932,900	-	10,287,900	10,287,900	-
Mines Safety and Licensing (KRS 351.110)	36,600	36,600	-			-
Public Service Commission	103,900	103,900	-			-
FINANCE AND ADMINISTRATION CABINET			-			-
General Administration - Capital Construction Investment Income (KRS 42.500)	20,213,000	7,438,000	(12,775,000)	13,725,000	12,675,000	(1,050,000)
Technology Trust Fund (2003 Ky. Acts Ch. 156, Part III Sec. 25)	864,800	864,800	-			-
Perry/Knott County Recreational Authority - Red Fox Golf Course Project	1,685,000	1,685,000	-			-
Revenue (KRS 132.672, 134.400, 154.12-219, and 365.390(2))	103,700	103,700	-			-
Property Valuation Administration (KRS 132.590 and KRS 132.597)	111,600	111,600	-			-
Empower KY	592,900	-	(592,900)			-
HEALTH AND FAMILY SERVICES			-			-
General Administration and Program Support (KRS 212.025(2))	169,100	169,100	-			-
Children with Special Health Care Needs (KRS 212.025(2))	446,000	446,000	-			-
Children with Special Health Care Needs - Tobacco Fund (KRS 200.151)	43,900	43,900	-			-
Mental Health and Mental Retardation Services (KRS 212.025(2))	4,438,600	4,438,600	-			-
Public Health (KRS 212.025(2) and KRS 213.141(3))	1,909,600	1,909,600	-	358,800	358,800	-
Certificate of Need (KRS 212.025(2))	4,100	4,100	-			-
Human Support Services (KRS 212.025(2))	19,000	19,000	-			-
JUSTICE AND PUBLIC SAFETY CABINET			-			-
Justice Administration - Agency Revenue Fund	519,500	150,000	(369,500)	369,500	-	(369,500)
Kentucky Law Enforcement Foundation Program Fund (KRS (15.430)	16,422,100	16,422,100	-	9,000,000	6,742,000	(2,258,000)
Juvenile Justice - Agency Revenue Fund	2,600,000	2,600,000	-			-
State Police - Agency Revenue Fund	1,250,000	1,250,000	-			-
Public Advocacy (KRS 31.211, KRS 189A.050(3)(f))	-	-	-			-

SENATE BUDGET REPORT
2005 SESSION OF THE GENERAL ASSEMBLY
HOUSE BILL 267/SCS
FUNDS TRANSFERS (PART V)

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	FY 2004-2005			FY 2005-2006		
	House	Senate	Difference	House	Senate	Difference
PERSONNEL			-			-
General Operations - Flexible Spending Account (KRS 18A.225(2)(g))	580,000	580,000	-	2,500,000	2,500,000	-
General Operations - Special Deposit Trust Fund	184,800	184,800	-			-
General Operations - Insurance Administration Fund	146,000	146,000	-			-
Government Training - Agency Revenue Fund	55,000	55,000	-			-
POSTSECONDARY EDUCATION			-			-
Council on Postsecondary Education - Agency Revenue Fund	400,000	400,000	-			-
Technology Initiative Trust Fund (KRS 164.7911 and 164.7921)	132,900	132,900	-			-
Kentucky Higher Education Assistance Authority - KAPT		13,700,100	13,700,100			
Kentucky Higher Education Student Loan Corporation	7,800,000	7,800,000	-	59,000,000	59,000,000	-
Eastern Kentucky University - Agency Revenue Fund	2,415,700	2,415,700	-			-
Kentucky State University - Agency Revenue Fund	586,600	586,600	-			-
Morehead State University - Agency Revenue Fund	1,501,300	1,501,300	-			-
Murray State University - Agency Revenue Fund	1,632,900	1,632,900	-			-
Northern Kentucky University - Agency Revenue Fund	1,951,600	1,951,600	-			-
University of Louisville - Agency Revenue Fund	4,400,000	4,400,000	-			-
Western Kentucky University - Agency Revenue Fund	2,381,600	2,381,600	-			-
Kentucky Community and Technical College System	4,996,700	4,996,700	-			-
Firefighters Foundation Program Fund (KRS 95A.222)	9,868,900	9,868,900	-	3,500,000	3,500,000	-
TRANSPORTATION CABINET			-			-
General Administration and Support Fleet Management Fund	5,000,000	5,000,000	-	2,500,000	2,500,000	-
Air Transportation Kentucky Aviation Economic Development Fund (KRS 183.525(3), (4), and (5))	700,000	-	(700,000)			-
LEGISLATIVE BRANCH			-			-
General Administration and Support Fleet Management Fund	500,000	500,000	-	-	-	-
TOTAL	156,520,000	159,904,400	3,384,400	188,271,300	186,593,800	(1,677,500)

SENATE BUDGET REPORT
2005 SESSION OF THE GENERAL ASSEMBLY -- OPERATING BUDGET SUMMARY
ROAD FUND SUMMARY

Governmental Branch: Executive

	<u>FY2004</u>	<u>FY 2004-2005</u>			<u>FY 2005-2006</u>		
	<u>Actual</u>	<u>Bill as Introduced</u>	<u>House</u>	<u>Senate</u>	<u>Bill as Introduced</u>	<u>House</u>	<u>Senate</u>
<u>RESOURCES</u>							
Beginning Balance							
Revenue Receipts/Estimates	1,116,734,300	1,119,702,900	1,119,702,900	1,119,702,900	1,127,126,500	1,127,126,500	1,127,126,500
Spend down of Continuing Approp.	217,326,000						
FY 2004 Surplus		23,011,700	23,011,700	23,011,700			
Fund Transfers	6,097,100						
Non-Revenue Transfers	(783,600)						
Road Fund Revenue Initiative					53,250,000	28,892,700	28,842,700
TOTAL RESOURCES	1,339,373,800	1,142,714,600	1,142,714,600	1,142,714,600	1,180,376,500	1,156,019,200	1,155,969,200
<u>APPROPRIATIONS/EXPENDITURES</u>							
<u>TRANSPORTATION CABINET</u>							
General Admin. & Support	60,298,600	64,956,100	64,956,100	64,956,100	66,530,000	66,530,000	66,530,000
Revenue Sharing	229,705,300	236,928,500	236,928,500	236,928,500	243,540,600	243,540,600	229,080,600
Highways	794,894,500	637,266,800	637,266,800	637,266,800	634,583,700	610,226,400	621,016,600
Vehicle Regulation	29,536,700	15,834,000	15,834,000	15,834,000	15,898,000	15,898,000	15,898,000
Debt Service	153,294,900	116,113,500	116,113,500	116,113,500	157,528,900	157,528,900	171,496,900
Capital Budget	8,284,000	13,794,000	13,794,000	13,794,000	4,248,000	4,248,000	4,248,000
TOTAL-TRANSPORTATION	1,276,014,000	1,084,892,900	1,084,892,900	1,084,892,900	1,122,329,200	1,097,971,900	1,108,270,100
DEPT. OF TREASURY	0	250,000	250,000	250,000	250,000	250,000	250,000
<u>JUSTICE CABINET</u>							
Kentucky State Police	35,000,000	39,769,100	39,769,100	39,769,100	39,769,100	39,769,100	29,769,100
Motor Vehicle Enforcement	0	12,696,600	12,696,600	12,696,600	13,347,200	13,347,200	12,999,000
<u>FINANCE CABINET</u>							
Debt Service	3,664,000	2,930,000	2,930,000	2,930,000	2,505,000	2,505,000	2,505,000
Department of Administration	283,000	283,000	283,000	283,000	283,000	283,000	283,000
Department of Revenue	1,401,100	1,418,000	1,418,000	1,418,000	1,418,000	1,418,000	1,418,000
Comm. Office of Technology	0	125,000	125,000	125,000	125,000	125,000	125,000
GOV.'S OFF. OF HOMELAND SEC.	0	350,000	350,000	350,000	350,000	350,000	350,000
TOTAL APPROP./EXPEND.	1,316,362,100	1,142,714,600	1,142,714,600	1,142,714,600	1,180,376,500	1,156,019,200	1,155,969,200
Road Fund Surplus	23,011,700	0	0	0	0	0	0

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SENATE BUDGET REPORT - 2005 REGULAR SESSION OF THE GENERAL ASSEMBLY

Commonwealth of Kentucky

Operating Budget

Summary Totals

	Fiscal Year 2004-2005			Fiscal Year 2005-2006		
	House Budget	Senate Budget	Difference	House Budget	Senate Budget	Difference
I. APPROPRIATIONS SUMMARY BY FUND SOURCE						
General Fund (Tobacco)	108,140,000	108,140,000		108,600,000	108,600,000	
General Fund	7,331,786,000	7,343,132,900	11,346,900	7,972,977,900	7,975,723,500	2,745,600
Restricted Funds	4,203,424,300	4,209,083,800	5,659,500	4,090,318,100	4,097,151,600	6,833,500
Federal Funds	6,921,035,700	6,921,273,800	238,100	6,795,803,800	6,797,256,700	1,452,900
Road Fund	1,128,920,600	1,128,920,600		1,151,771,200	1,151,721,200	(50,000)
Bond Funds	350,000,000	450,000,000	100,000,000			
Regular Total Funds	20,043,306,600	20,160,551,100	117,244,500	20,119,471,000	20,130,453,000	10,982,000
Continuing	34,643,900	34,643,900		6,754,100	6,754,100	
TOTAL FUNDS	20,077,950,500	20,195,195,000	117,244,500	20,126,225,100	20,137,207,100	10,982,000
II. EXPENDITURE CATEGORY						
Personnel Costs	4,308,709,000	4,308,001,500	(707,500)	4,506,583,200	4,505,785,700	(797,500)
Operating Expenses	1,928,510,500	1,944,964,000	16,453,500	1,979,390,000	1,977,069,500	(2,320,500)
Grants, Loans, Benefits	11,741,709,300	11,742,739,800	1,030,500	11,945,879,600	11,925,356,500	(20,523,100)
Debt Service	555,056,100	555,524,100	468,000	703,257,000	722,433,900	19,176,900
Capital Outlay	142,821,600	142,821,600		140,233,900	140,233,900	
Construction	1,401,144,000	1,501,144,000	100,000,000	850,881,400	866,327,600	15,446,200
TOTAL EXPENDITURES	20,077,950,500	20,195,195,000	117,244,500	20,126,225,100	20,137,207,100	10,982,000
III. BASE LEVEL BUDGET BY FUND SOURCE						
General Fund (Tobacco)	108,140,000	108,140,000		108,600,000	108,600,000	
General Fund	7,330,246,800	7,341,543,700	11,296,900	7,768,679,400	7,774,010,500	5,331,100
Restricted Funds	4,201,674,300	4,206,433,800	4,759,500	4,087,518,100	4,093,217,600	5,699,500
Federal Funds	6,921,035,700	6,921,273,800	238,100	6,794,452,000	6,795,904,900	1,452,900
Road Fund	1,128,920,600	1,128,920,600		1,151,771,200	1,137,753,200	(14,018,000)
Bond Funds	350,000,000	300,000,000	(50,000,000)			
Regular Total Funds	20,040,017,400	20,006,311,900	(33,705,500)	19,911,020,700	19,909,486,200	(1,534,500)
Continuing	34,643,900	34,643,900		6,754,100	6,754,100	
TOTAL BASE LEVEL	20,074,661,300	20,040,955,800	(33,705,500)	19,917,774,800	19,916,240,300	(1,534,500)
IV. ADDITIONAL BUDGET RECAP BY FUND SOURCE						
General Fund	1,539,200	1,589,200	50,000	204,298,500	201,713,000	(2,585,500)
Restricted Funds	1,750,000	2,650,000	900,000	2,800,000	3,934,000	1,134,000
Federal Funds				1,351,800	1,351,800	
Road Fund					13,968,000	13,968,000
Bond Funds		150,000,000	150,000,000			
TOTAL ADDITIONAL	3,289,200	154,239,200	150,950,000	208,450,300	220,966,800	12,516,500

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SENATE BUDGET REPORT - 2005 REGULAR SESSION OF THE GENERAL ASSEMBLY

Commonwealth of Kentucky

Capital Budget

Summary Totals

	Fiscal Year 2004-2005			Fiscal Year 2005-2006		
	House Budget	Senate Budget	Difference	House Budget	Senate Budget	Difference
I. CAPITAL PROJECT RECAP BY FUND SOURCE						
General Fund (Tobacco	660,000	660,000				
General Fund	36,375,000	37,325,000	950,000	6,140,700	6,140,700	
Restricted Funds	1,538,723,700	1,686,534,700	147,811,000	102,192,000	102,192,000	
Federal Funds	83,825,000	99,075,000	15,250,000	14,703,000	14,703,000	
Road Fund	13,794,000	13,794,000		4,248,000	4,248,000	
Bond Funds	988,845,300	1,087,897,300	99,052,000	26,800,000	42,075,000	15,275,000
Agency Bonds	490,453,300	233,795,000	(256,658,300)			
Capital Construction Sur	1,892,400	1,892,400		63,000	63,000	
Investment Income	11,069,000	23,844,000	12,775,000	6,170,000	4,720,000	(1,450,000)
Other Funds	153,100,000	21,800,000	(131,300,000)	4,300,000	4,300,000	
TOTAL CAPITAL	3,318,737,701	3,206,617,401	(112,120,300)	164,616,700	178,441,700	13,825,000

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SENATE BUDGET REPORT - 2005 REGULAR SESSION OF THE GENERAL ASSEMBLY

Executive Branch

Operating Budget

Summary Totals

	Fiscal Year 2004-2005			Fiscal Year 2005-2006		
	House Budget	Senate Budget	Difference	House Budget	Senate Budget	Difference
I. APPROPRIATIONS SUMMARY BY FUND SOURCE						
General Fund (Tobacco)	108,140,000	108,140,000		108,600,000	108,600,000	
General Fund	7,331,786,000	7,343,132,900	11,346,900	7,971,792,400	7,974,538,000	2,745,600
Restricted Funds	4,203,424,300	4,209,083,800	5,659,500	4,090,318,100	4,097,151,600	6,833,500
Federal Funds	6,921,035,700	6,921,273,800	238,100	6,795,803,800	6,797,256,700	1,452,900
Road Fund	1,128,920,600	1,128,920,600		1,151,771,200	1,151,721,200	(50,000)
Bond Funds	350,000,000	450,000,000	100,000,000			
Regular Total Funds	20,043,306,600	20,160,551,100	117,244,500	20,118,285,500	20,129,267,500	10,982,000
Continuing	34,643,900	34,643,900		6,754,100	6,754,100	
TOTAL FUNDS	20,077,950,500	20,195,195,000	117,244,500	20,125,039,600	20,136,021,600	10,982,000
II. EXPENDITURE CATEGORY						
Personnel Costs	4,308,709,000	4,308,001,500	(707,500)	4,505,397,700	4,504,600,200	(797,500)
Operating Expenses	1,928,510,500	1,944,964,000	16,453,500	1,979,390,000	1,977,069,500	(2,320,500)
Grants, Loans, Benefits	11,741,709,300	11,742,739,800	1,030,500	11,945,879,600	11,925,356,500	(20,523,100)
Debt Service	555,056,100	555,524,100	468,000	703,257,000	722,433,900	19,176,900
Capital Outlay	142,821,600	142,821,600		140,233,900	140,233,900	
Construction	1,401,144,000	1,501,144,000	100,000,000	850,881,400	866,327,600	15,446,200
TOTAL EXPENDITURES	20,077,950,500	20,195,195,000	117,244,500	20,125,039,600	20,136,021,600	10,982,000
III. BASE LEVEL BUDGET BY FUND SOURCE						
General Fund (Tobacco)	108,140,000	108,140,000		108,600,000	108,600,000	
General Fund	7,330,246,800	7,341,543,700	11,296,900	7,767,493,900	7,772,825,000	5,331,100
Restricted Funds	4,201,674,300	4,206,433,800	4,759,500	4,087,518,100	4,093,217,600	5,699,500
Federal Funds	6,921,035,700	6,921,273,800	238,100	6,794,452,000	6,795,904,900	1,452,900
Road Fund	1,128,920,600	1,128,920,600		1,151,771,200	1,137,753,200	(14,018,000)
Bond Funds	350,000,000	300,000,000	(50,000,000)			
Regular Total Funds	20,040,017,400	20,006,311,900	(33,705,500)	19,909,835,200	19,908,300,700	(1,534,500)
Continuing	34,643,900	34,643,900		6,754,100	6,754,100	
TOTAL BASE LEVEL	20,074,661,300	20,040,955,800	(33,705,500)	19,916,589,300	19,915,054,800	(1,534,500)
IV. ADDITIONAL BUDGET RECAP BY FUND SOURCE						
General Fund	1,539,200	1,589,200	50,000	204,298,500	201,713,000	(2,585,500)
Restricted Funds	1,750,000	2,650,000	900,000	2,800,000	3,934,000	1,134,000
Federal Funds				1,351,800	1,351,800	
Road Fund					13,968,000	13,968,000
Bond Funds		150,000,000	150,000,000			
TOTAL ADDITIONAL	3,289,200	154,239,200	150,950,000	208,450,300	220,966,800	12,516,500

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SENATE BUDGET REPORT - 2005 REGULAR SESSION OF THE GENERAL ASSEMBLY

Executive Branch

Capital Budget

Summary Totals

	Fiscal Year 2004-2005			Fiscal Year 2005-2006		
	House Budget	Senate Budget	Difference	House Budget	Senate Budget	Difference
I. CAPITAL PROJECT RECAP BY FUND SOURCE						
General Fund (Tobacco	660,000	660,000				
General Fund	36,375,000	37,325,000	950,000	6,140,700	6,140,700	
Restricted Funds	1,538,723,700	1,686,534,700	147,811,000	102,192,000	102,192,000	
Federal Funds	83,825,000	99,075,000	15,250,000	14,703,000	14,703,000	
Road Fund	13,794,000	13,794,000		4,248,000	4,248,000	
Bond Funds	988,845,300	1,087,897,300	99,052,000	26,800,000	42,075,000	15,275,000
Agency Bonds	490,453,300	233,795,000	(256,658,300)			
Capital Construction Sur	1,892,400	1,892,400		63,000	63,000	
Investment Income	11,069,000	23,844,000	12,775,000	6,170,000	4,720,000	(1,450,000)
Other Funds	153,100,000	21,800,000	(131,300,000)	4,300,000	4,300,000	
TOTAL CAPITAL	3,318,737,701	3,206,617,401	(112,120,300)	164,616,700	178,441,700	13,825,000

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SENATE BUDGET REPORT - 2005 REGULAR SESSION OF THE GENERAL ASSEMBLY

Judicial Branch

Operating Budget

Summary Totals

	Fiscal Year 2004-2005			Fiscal Year 2005-2006		
	House Budget	Senate Budget	Difference	House Budget	Senate Budget	Difference
I. APPROPRIATIONS SUMMARY BY FUND SOURCE						
General Fund				1,077,400	1,077,400	
Regular Total Funds				1,077,400	1,077,400	
Continuing						
TOTAL FUNDS				1,077,400	1,077,400	

II. EXPENDITURE CATEGORY

Personnel Costs				1,077,400	1,077,400	
TOTAL EXPENDITURES				1,077,400	1,077,400	

III. BASE LEVEL BUDGET BY FUND SOURCE

General Fund				1,077,400	1,077,400	
Regular Total Funds				1,077,400	1,077,400	
Continuing						
TOTAL BASE LEVEL				1,077,400	1,077,400	

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SENATE BUDGET REPORT - 2005 REGULAR SESSION OF THE GENERAL ASSEMBLY

Legislative Branch

Operating Budget

Summary Totals

	Fiscal Year 2004-2005			Fiscal Year 2005-2006		
	House Budget	Senate Budget	Difference	House Budget	Senate Budget	Difference
I. APPROPRIATIONS SUMMARY BY FUND SOURCE						
General Fund				108,100	108,100	
Regular Total Funds				108,100	108,100	
Continuing						
TOTAL FUNDS				108,100	108,100	

II. EXPENDITURE CATEGORY

Personnel Costs				108,100	108,100	
TOTAL EXPENDITURES				108,100	108,100	

III. BASE LEVEL BUDGET BY FUND SOURCE

General Fund				108,100	108,100	
Regular Total Funds				108,100	108,100	
Continuing						
TOTAL BASE LEVEL				108,100	108,100	

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SENATE BUDGET REPORT
2005 REGULAR SESSION OF THE GENERAL ASSEMBLY
FB 2004-06 BOND PROJECTS RECORD

Budget Unit		House Budget	Senate Budget	Difference
I. STATE BOND PROJECTS				
Government Operations				
Governor's Office for Agricultural Policy	GOAP - Replace Tobacco Funds	17,000,000	17,000,000	-
Kentucky Infrastructure Authority	KIA - Fund A	2,200,000	2,200,000	-
Kentucky Infrastructure Authority	KIA - Fund F	2,600,000	2,600,000	-
Kentucky Infrastructure Authority	KIA - Water and Sewer Resources Development Fund	50,000,000		(50,000,000)
Kentucky Infrastructure Authority	KIA - Water and Sewer Resources Development Fund for Tobacco	82,000,000		(82,000,000)
	KIA - Infrastructure for Economic Development Fund for Coal			
Kentucky Infrastructure Authority	Producing Counties		64,000,000	64,000,000
	KIA - Infrastructure for Economic Development Fund for Tobacco			
Kentucky Infrastructure Authority	Counties		115,000,000	115,000,000
Military Affairs	MA - Various Facilities - Deferred Maintenance	2,300,000	2,300,000	-
Governor's Office for Local Development	¹ GOLD Community Economic Growth Grant Program		10,000,000	10,000,000
Governor's Office for Local Development	GOLD Southeast KY Agricultural Technology & Exhibition Center		8,250,000	8,250,000
Governor's Office for Local Development	GOLD James E. Bruce Convention Center	1,000,000		(1,000,000)
				-
Commerce				
Parks	Parks Renovation Pool	35,000,000	35,000,000	-
Parks	Herrington Lake Area Development Study	2,000,000		(2,000,000)
Parks	Kincaid Lake Land Acquisition	500,000		(500,000)
Horse Park Commission	Horse Park Indoor Arena - Design		1,500,000	1,500,000
State Fair Board	State Fair Board Design East Wing/Hall Renovation Project	50,000,000	50,000,000	-
				-
Economic Development				
Economic Development	Airport Relocation Assistance		5,000,000	5,000,000
Economic Development	Economic Development Bond Pool	10,000,000	10,000,000	-
Economic Development	Airport Relocation Assistance	5,000,000		(5,000,000)
Economic Development	ED Commercialization & Investment Bond Pool	5,000,000	5,000,000	-
				-
Department of Education				
Kentucky School for the Deaf	KSD Various Major Maintenance	3,839,000	3,839,000	-
Operations and Support Services	Arts Education Facilities Program	1,800,000		(1,800,000)
	Rockcastle Area Vocational Technical School	8,000,000	6,000,000	(2,000,000)
				-
Education Cabinet				
Kentucky Educational Television	KET - Replace Roof - Network Center	1,000,000	1,000,000	-
School Facilities Construction Commission	SFCC - New Bond Authorization	67,735,000	67,735,000	-
				-
School Facilities Construction Commission	SFCC Additional Construction Cost		6,811,300	6,811,300
School Facilities Construction Commission	SFCC - Urgent Need School Trust Fund		91,536,000	91,536,000
School Facilities Construction Commission	SFCC - School District No. 491 & 535	10,396,300		(10,396,300)
Vocational Rehabilitation	Replace Roof - Perkins Rehabilitation Center	1,320,000	1,320,000	-
				-
Environmental and Public Protection Cabinet				
Natural Resources	State-Owned Dam Repair	1,000,000	1,000,000	-
PUS Tank Assurance Fund	PUS - Underground Storage Tank Program	25,000,000	25,000,000	-
				-

SENATE BUDGET REPORT
2005 REGULAR SESSION OF THE GENERAL ASSEMBLY
FB 2004-06 BOND PROJECTS RECORD

Budget Unit				
Finance and Administration Cabinet				
Finance	Project Acceleration - Debt Service (Assume \$50 Million)	-	-	-
Finance	Statewide Repair, Maintenance & Replacement Fund	29,550,000	18,225,000	(11,325,000)
Finance	Phase II Tobacco Settlement Payments	87,000,000	87,000,000	-
Finance	Renovate State Office Building		53,500,000	53,500,000
Finance	Capitol Complex II - Improve Site Infrastructure	6,000,000	6,000,000	-
Finance-GOT	GOT UCJIS - Court Improvements (E Warrants)	4,500,000	4,500,000	-
Finance-GOT	GOT Public Safety Communication Infrastructure - KEWS	26,768,000	13,768,000	(13,000,000)
Revenue	Develop Streamlined Sales Tax Simplification System	14,062,000	14,062,000	-
Revenue	Business Refund Off-set System	1,750,000	1,750,000	-
Revenue	Collection System Interface - Phase I	1,500,000	1,500,000	-
Health and Family Services Cabinet				
Health & Family Services	Child Support Enforcement (KASES II)	2,040,000	2,040,000	-
Health & Family Services	Safeguarding Children at Risk-Twist System Upgrade	2,205,000	2,205,000	-
Health & Family Services	Network Infrastructure Upgrade	782,000	782,000	-
Mental Health/Mental Retardation	Upgrade HVAC Pipes & Electric - Glasgow	2,200,000	2,200,000	-
Mental Health/Mental Retardation	Replace Roof - Oakwood	2,200,000	2,200,000	-
Public Health	Upgrade Kasper System - DPH	5,000,000	5,000,000	-
Justice and Public Safety Cabinet				
State Police	KSP - Records and Secure Evidence Facility		6,075,000	6,075,000
Corrections Management	Replace Electronic Offender Management System - Phase I	5,000,000	5,000,000	-
Personnel Cabinet				
Personnel	Replace Commonwealth's Personnel & Payroll System - Phase I	25,000,000	25,000,000	-
Postsecondary Education				
Council on Postsecondary Education	CPE - Biotechnology Building/Shrimp Production		1,700,000	1,700,000
	CPE - Capital Renewal and Maintenance Pool	15,000,000		(15,000,000)
	Manchester Postsecondary Education Center		9,000,000	9,000,000
	Knox Partners Community Education Center		2,000,000	2,000,000
Eastern Kentucky University	EKU Business/Technology Center, Phase II	32,850,000	29,700,000	(3,150,000)
Eastern Kentucky University	EKU Science Complex	5,000,000	4,000,000	(1,000,000)
Kentucky State University	KSU Hathaway Hall Renovation - Phase II	7,400,000	7,400,000	-
Kentucky State University	KSU Young Hall Renovation	5,339,000	5,339,000	-
Morehead State University	MoSU NASA Space Science Center	12,200,000	10,320,000	(1,880,000)
Morehead State University	MoSU Health Science Classroom Building	1,500,000		(1,500,000)
Murray State University	MuSU New Science Complex	15,000,000	15,000,000	-
Northern Kentucky University	NKU Regional Special Events Center	42,000,000	54,000,000	12,000,000
University of Kentucky	UK Biological/Pharmaceutical Complex	40,000,000	32,000,000	(8,000,000)
University of Kentucky	UK Animal Diagnostic Center	8,500,000		(8,500,000)
University of Louisville	UL Health Science Campus Research Facility, Phase III	39,150,000	31,320,000	(7,830,000)
Western Kentucky University	WKU Renovate Science Campus, Phase II	33,000,000	29,700,000	(3,300,000)
Western Kentucky University	WKU Math & Science Academy Renovation	5,000,000	2,750,000	(2,250,000)
Kentucky Community and Technical College System	LCC Classroom/Class Lab Building	28,855,000	31,741,000	2,886,000
Kentucky Community and Technical College System	Gateway CTC - Expand Edgewood Campus	14,070,000	15,477,000	1,407,000
Kentucky Community and Technical College System	Ashland Technology Center	18,030,000	14,424,000	(3,606,000)
Kentucky Community and Technical College System	Warren County Technology Center	7,500,000	7,500,000	-
Kentucky Community and Technical College System	Somerset Aviation	1,500,000	1,650,000	150,000
Kentucky Community and Technical College System	KCTCS Facilities Construction Pool	40,750,000		(40,750,000)
Kentucky Community and Technical College System	Jefferson Community College	600,000		(600,000)

SENATE BUDGET REPORT

2005 REGULAR SESSION OF THE GENERAL ASSEMBLY

FB 2004-06 BOND PROJECTS RECORD

Budget Unit				
Kentucky Community and Technical College System	Owensboro Technology Center	13,088,000	10,000,000	(3,088,000)
Kentucky Community and Technical College System	Madisonville Technology Center	12,000,000	9,600,000	(2,400,000)
Kentucky Community and Technical College System	Franklin Technology Center	4,000,000	12,000,000	8,000,000
Kentucky Community and Technical College System	Henderson Community Technology Center	13,066,000	10,453,000	(2,613,000)
State Bond Fund Total		\$ 1,015,645,300	\$ 1,129,972,300	\$ 114,327,000

II. AGENCY BOND PROJECTS

Government Operations

Military Affairs	Hanger/Warehouse/Office Buildings - Bluegrass Station	12,020,000	12,020,000	-
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Commerce

State Fair Board	Design East Wing/Hall Renovation Project		5,000,000	5,000,000
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Postsecondary Education

Eastern Kentucky University	Construct New Intramural Fields	2,300,000		(2,300,000)
Eastern Kentucky University	Renovate Residence Hall	7,500,000	7,500,000	-
Kentucky State University	Construct New Parking Garage	15,216,300		(15,216,300)
Kentucky State University	Residence Hall Improvements Pool	300,000		(300,000)
Kentucky State University	Bell Gym Improvements Pool	300,000		(300,000)
Kentucky State University	Hill Student Center 3rd Floor Build-out	600,000		(600,000)
Kentucky State University	Alumni Stadium Structural Repair	400,000		(400,000)
Kentucky State University	Softball Field	500,000		(500,000)
Kentucky State University	KSU Various Projects Pool		1,000,000	1,000,000
Morehead State University	Expand Student Wellness Center	1,000,000	1,000,000	-
Morehead State University	Residence Hall Renovation/Improvement Pool	10,000,000		(10,000,000)
Murray State University	Construct New Residential Hall Renovation/Improvement Pool	26,154,000		(26,154,000)
Northern Kentucky University	Construct New Student Union Building	29,500,000	29,500,000	-
University of Kentucky	Construct Patient Care Facility - Hospital	250,000,000	100,000,000	(150,000,000)
University of Kentucky	UK Biological/Pharmaceutical Complex		8,000,000	8,000,000
University of Kentucky	Renovate Blazer Hall Cafeteria	2,250,000	2,250,000	-
University of Kentucky	Renovate Student Center Food Court	1,643,000	1,643,000	-
University of Kentucky	Renovate Central Facility Cafeteria	2,100,000	2,100,000	-
University of Kentucky	Renovate K-Lair Building	5,109,000		(5,109,000)
University of Kentucky	Install HVAC Keeneland Hall	5,109,000		(5,109,000)
University of Kentucky	Construct Student Health Facility	24,000,000		(24,000,000)
University of Kentucky	UK Basketball Practice Facility		15,000,000	15,000,000
University of Louisville	UL Health Science Campus Research Facility, Phase III		7,830,000	7,830,000
University of Louisville	Construct Multipurpose Fieldhouse & Practice Facility	12,404,000	12,404,000	-
University of Louisville	Construct Residential Hall -276 Beds, Phase III, (Community Park)	14,000,000	14,000,000	-
University of Louisville	Expand Cardinal Arena for Basketball and Office	9,548,000	9,548,000	-
Western Kentucky University	WKU Math & Science Academy Renovation	5,000,000	5,000,000	-
Western Kentucky University	Preston Activity Center Addition	7,000,000		(7,000,000)
Western Kentucky University	Student Health Services Clinic	4,000,000		(4,000,000)
Western Kentucky University	Renovate and Expand Academic/Athletic Facilities	35,000,000		(35,000,000)
Western Kentucky University	South Campus Parking and Dining	7,500,000		(7,500,000)

Budget Unit

Agency Bond Total	\$	490,453,300	\$	233,795,000	\$	(256,658,300)
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III. ROAD FUND BOND PROJECTS

* Transportation	² Transportation			
Turnpike Authority of Kentucky	Economic Development Road Fund Bonds	350,000,000	450,000,000	100,000,000
	Road Fund Bond Total	\$ 350,000,000	\$ 450,000,000	\$ 100,000,000

RECAP

State Bond Projects	\$ 1,015,645,300	\$ 1,129,972,300	\$ 114,327,000
Agency Bond Projects	\$ 490,453,300	\$ 233,795,000	\$ (256,658,300)
Road Fund Projects	\$ 350,000,000	\$ 450,000,000	\$ 100,000,000
Total Bonds	\$ 1,856,098,600	\$ 1,813,767,300	\$ (42,331,300)

¹ Note: A total of \$10 million in Bond Funds (\$5M- FY05 and \$5M-FY06) is authorized in both FY05 and FY06 for the Community Economic Growth Grant Program Office for Local Development. Debt service in the amount of \$468,000 is appropriated in each year of the biennium.

² Included in the Transportation Cabinet's Highway budget is a Federal Fund appropriation in the amount of \$18,838,300 in fiscal year 2005-2006 for debt service on GARVEE bonds. The debt service will produce approximately \$150 million in bond proceeds which will be used to finance road construction projects on I-64, I-65, and I-75.

**Fiscal Biennium 2004-2006
BUDGET MODIFICATION REPORT**

Part II - Capital Projects Budget

BILL AS INTRODUCED:

The State/Executive Branch Budget Bill, Part II, Capital Projects Budget includes the directives:

(1) Capital Construction Fund Appropriations and Reauthorizations: Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2004-2006 fiscal biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

(2) Expiration of Existing Line-Item Capital Construction Projects: All appropriations to existing line-item capital construction projects expire on June 30, 2005, unless reauthorized in this Act with the following exceptions: (a) A construction contract for the project shall have been awarded by June 30, 2005; (b) Permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds; and (c) Grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties. Notwithstanding the criteria set forth in this section, the disposition of 2002-2004 biennium nonstatutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(4)(c) and (d).

(3) New Bond Projects: Bond projects authorized for the first time in this Part which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium. Debt service has been included effective July 1, 2005, for those projects that have progressed sufficiently to warrant the immediate sale of bonds, subject to the approval of the State Budget Director and the Secretary of the Finance and Administration Cabinet. The sale of all other bonds to finance the remaining projects shall occur after August 1, 2005.

(4) Lapse of General Fund Debt Service Appropriations for Canceled Projects: If any authorized capital construction or major equipment projects are canceled, any General Fund appropriated debt service for those same projects shall lapse to the credit of the General Fund.

(5) Bond Proceeds Investment Income: Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond-financed capital project may be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding KRS 48.010(13)(b), 48.720, or any section of this Act, any funds appropriated but not required to pay debt service because of this fund source substitution shall be

Fiscal Biennium 2004-2006
BUDGET MODIFICATION REPORT

Part II - Capital Projects Budget

credited to the Statewide Deferred Maintenance Fund account each year. Unneeded debt service resulting from any other circumstance shall lapse in accordance with KRS 48.010(13)(b), 48.720, and other provisions of this Act except for the following: if the fund balance in the Emergency Repair, Maintenance, and Replacement Fund falls below \$5,000,000 in fiscal year 2004-2005, any debt service lapse necessary to bring the fund balance to \$5,000,000 in that fiscal year shall be credited to the Emergency Repair, Maintenance, and Replacement Fund. No transfer to the Emergency Repair, Maintenance, and Replacement Fund, or the Statewide Deferred Maintenance Pool Account, shall be made based on the above provisions if the lapse from other General Fund accounts is insufficient to meet appropriations approved in other Parts of this Act.

(6) Appropriations for Projects Not Line-Itemized: Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Kentucky Infrastructure Authority Water and Sewer Projects; Repair of State-Owned Dams; Land Acquisition; Property Demolition; Guaranteed Energy Savings projects; Wetland and Stream Mitigation; Phase I Tobacco Settlement Agricultural Development Initiative; Economic Development projects which shall include authorization for the High-Tech Construction Pool and the High-Tech Investment Pool; Infrastructure projects; the Capital Renewal and Maintenance Bond Pool; and University Major Items of Equipment Pools. Any projects estimated to cost over \$400,000 and equipment estimated to cost over \$100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

HOUSE REPORT

The House concurs with the Bill as Introduced, Part II, Capital Projects, with the following changes:

(3) New Bond Projects: Bond projects authorized for the first time in this Part which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium. Debt service has been included at the beginning of fiscal year 2005-2006. The sale of bonds for the Facilities Management, Statewide Repair, Maintenance, and Replacement Pool Fund shall occur after July 1, 2005. The sale of bonds to finance replacement of the Commonwealth's Personnel and Payroll System shall occur after January 1, 2006.

SENATE REPORT

The Senate concurs with the House Report with the following changes:

Fiscal Biennium 2004-2006
BUDGET MODIFICATION REPORT

Part II - Capital Projects Budget

(2) Expiration of Existing Line-Item Capital Construction Projects: All appropriations to existing line-item capital construction projects expire on June 30, 2005, unless reauthorized in this Act with the following exceptions: (a) A construction contract for the project shall have been awarded by June 30, 2005; (b) Permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds; (c) Grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties; and (d) Any capital construction project authorized pursuant to actions approved by the 2003 General Assembly in House Bill 269 (2003 Ky. Acts ch. 156, Part II, R. Coal Severance Tax Projects), unless otherwise provided for in this Act, is deemed to be reauthorized up to the total amount of receipts allocated to the single county account at the end of fiscal year 2003-2004. Notwithstanding the criteria set forth in this section, the disposition of 2002-2004 biennium nonstatutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(4)(c) and (d).

(3) New Bond Projects: Bond projects authorized for the first time in this Part which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium. Debt service has been included at the beginning of fiscal year 2005-2006. The sale of bonds for the Facilities Management, Statewide Repair, Maintenance, and Replacement Pool Fund shall occur after July 1, 2005.

(6) Appropriations for Projects Not Line-Itemized: Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Kentucky Infrastructure Authority Water and Sewer Projects; Repair of State-Owned Dams; Land Acquisition; Property Demolition; Guaranteed Energy Savings projects; Wetland and Stream Mitigation; Phase I Tobacco Settlement Agricultural Development Initiative; Economic Development projects which shall include authorization for the High-Tech Construction Pool and the High-Tech Investment Pool; Military Affairs Various Facilities Deferred Maintenance; Parks Renovation Pool; Education - Various Major Maintenance, Kentucky School for the Deaf; Statewide Repair, Maintenance, and Replacement Pool; Infrastructure projects; the Capital Renewal and Maintenance Bond Pool; and University Major Items of Equipment Pools. Any projects estimated to cost over \$400,000 and equipment estimated to cost over \$100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

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**Fiscal Biennium 2004-2006
BUDGET MODIFICATION REPORT**

Part III – GENERAL PROVISIONS

BILL AS INTRODUCED

The State/Executive Branch Budget Bill, Part III, General Provisions, includes the following directives:

1. Funds Designations and Sources: Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Correctional Industries, Central Printing, Risk Management, and Property Management), and selected Fiduciary Funds (Other Expendable Trust Funds). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, and other miscellaneous federal receipts received by a budget unit, the Unemployment Compensation Fund, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

2. Expenditure of Excess Restricted Funds or Federal Funds Receipts: If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2004-2005 or fiscal year 2005-2006, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act, for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810 and this Act, and with the authorization of the State Budget

**Fiscal Biennium 2004-2006
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Part III – GENERAL PROVISIONS

Director and approval of the Secretary of the Finance and Administration Cabinet.

Prior to authorizing the appropriation of any excess, unbudgeted Restricted Funds pursuant to this section, the State Budget Director and the Secretary of the Finance and Administration Cabinet shall review the adequacy of the General Fund Surplus Account with respect to its availability to support Necessary Government Expenses. In the event that General Fund Surplus Account moneys are determined by this review to be adequate to meet known or anticipated Necessary Government Expenses during fiscal year 2004-2005 or fiscal year 2005-2006, respectively, then the appropriation increase may be approved. In the event that the review indicates that there are insufficient funds available or reasonably estimated to become available to the General Fund Surplus Account to meet known or projected Necessary Government Expenses for the fiscal years enumerated above, the State Budget Director, with the concurrence of the Secretary of the Finance and Administration Cabinet, may disapprove the request for additional Restricted Funds expenditure authority and may direct the excess Restricted Funds identified to the General Fund Surplus Account in order to meet Necessary Government Expense obligations. The results of any review shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810.

Any request made by a budget unit pursuant to KRS 48.630 that relates to Restricted Funds or Federal Funds shall include documentation showing a comparative statement of revised estimated receipts by fund source and the proposed expenditures by proposed use, with the appropriated sums specified in the Budget of the Commonwealth, and statements which explain the cause, source, and use for any variances which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal Funds records contained in the fiscal biennium 2004-2006 Branch Budget Request Manual and according to the following schedule in each fiscal year: (a) On or before the beginning of each fiscal year; (b) On or before October 1; (c) On or before January 1; and (d) On or before April 1.

3. Appropriations Expenditure Purpose and Transfer Restrictions: Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630,

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Part III – GENERAL PROVISIONS

48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810. Compliance with the provisions of this section shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

4. Permitted Appropriation Obligations: No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records, and the statutory budget memorandum.

5. Lapse of General Fund or Road Fund Appropriations Supplanted by Federal Funds: Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account, respectively, to the extent the Federal Funds otherwise become available.

6. Federally Funded Agencies: A state agency entitled to Federal Funds which would represent 100 percent of the cost of a program shall conform to KRS 48.730.

7. Lapse of General Fund or Road Fund Excess Debt Service Appropriations: Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

8. Interim Appropriation Increases: No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 2 of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

9. Revision of Appropriation Allotments: Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

**Fiscal Biennium 2004-2006
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Part III – GENERAL PROVISIONS

10. Continuing Appropriations: All statutes and portions of statutes in conflict with any of the provisions of this Act, to the extent of the conflict, are suspended unless otherwise provided by this Act.

11. Construction of Budget Provisions on Statutory Budget Administration Powers and Duties: Nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

12. Interpretation of Appropriations: All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

13. Publication of the Budget of the Commonwealth: The State Budget Director shall cause the Governor's Office for Policy and Management, within 60 days of adjournment of the 2005 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the Legislative Budget, State/Executive Budget and Judicial Budget as enacted by the 2004 Regular Session, the 2004 Extraordinary Session, and the 2005 Regular Session of the General Assembly as well as other Acts which contain appropriation provisions for the 2004-2006 fiscal biennium, and based upon supporting documentation and legislative records as considered by the 2004 Regular Session, the 2004 Extraordinary Session, and the 2005 Regular Session of the General Assembly, and the statutory budget memorandum. This document shall include, for each agency and budget unit, a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, and any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each Part of this Act and by KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

14. State Financial Condition: Pursuant to KRS 48.400, the State Budget Director shall monitor and report on the financial condition of the Commonwealth.

15. Prorating Administrative Costs: The Secretary of the Finance and Administration Cabinet is authorized to establish a system or

**Fiscal Biennium 2004-2006
BUDGET MODIFICATION REPORT**

Part III – GENERAL PROVISIONS

formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

16. Construction of Budget Provisions Regarding Executive Reorganization Orders: Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in an Act of the 2003 Regular Session of the General Assembly or another Act of the 2004 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 2003 Regular Session to sine die adjournment of the 2004 Regular Session was not confirmed by the 2004 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 2003-2004 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 2004 Regular Session of the General Assembly.

17. Continuation of Public Services: The General Assembly hereby appropriates for fiscal year 2004-2005 funds required for those expenditures that have been approved by the Secretary of the Finance and Administration Cabinet and which have been paid, or for which a check has been written by the Office of the State Treasurer in accordance with Executive Order 2004-650, Executive Order 2004-1092, and Executive Order 2004-1373. The above provisions shall apply to periods preceding the effective date of this Act.

18. Budget Planning Report: By August 15, 2005, the State Budget Director, in conjunction with the Consensus Forecasting Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

19. Tax Expenditure Revenue Loss Estimates: By October 15, 2005, the Office of State Budget Director shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Department of Revenue shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal

Fiscal Biennium 2004-2006
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Part III – GENERAL PROVISIONS

authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

20. Duplicate Appropriations: Any appropriation item and sum in Parts I to XIII of this Act and in an appropriation provision in any Act of the 2004 Regular Session, 2004 Extraordinary Session and 2005 Regular Session, which constitute a duplicate appropriation shall be governed by KRS 48.312.

21. Priority of Individual Appropriations: KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

22. Severability of Budget Provisions: Appropriation items and sums in Parts I to XIII of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

23. Unclaimed Lottery Prize Money: For fiscal year 2004-2005 and fiscal year 2005-2006, all unclaimed lottery prize money under KRS 154A.110(3) shall be credited to the Student Financial Aid and Advancement Trust Fund to be held as a subsidiary account within the Finance and Administration Cabinet for the purpose of funding the Kentucky Excellence in Education Scholarship (KEES) Program as appropriated in this Act. If the Kentucky Higher Education Assistance Authority certifies to the State Budget Director that the appropriations in this Act for the KEES Program under the existing award schedule are insufficient to meet funds required for eligible applicants, then the State Budget Director shall provide the necessary allotment of funds in the balance of the Subsidiary Account to fund the KEES Program. Actions taken under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue on a timely basis.

24. Technology Trust Fund: The Technology Trust Fund is the Technology Trust Fund established by 1996 Ky. Acts ch. 380, Part X, to empower Kentucky state government through technology and redesigned business systems, and additional amounts made available and appropriated to it by 1998 Ky. Acts ch. 615, Part X.

Appropriations allotted from the Technology Trust Fund for each project, initiative, or system, as well as all other associated resources made available from regular appropriations for the same purpose from a budget unit shall be transferred and credited to, and accounted for and expended from, a discrete account established for the individual project, initiative, or system item. In addition to the General Fund appropriations for the Technology Trust Fund, Restricted Funds, Federal Funds, the Road Fund, private funds, and any matching

**Fiscal Biennium 2004-2006
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Part III – GENERAL PROVISIONS

fund appropriations required are appropriated in support of the projects and priorities previously identified by the Empower Kentucky Steering Committee. However, notwithstanding KRS 45.760(14), 45.770, 45.780, and 45.800, no funds from the Emergency Repair, Maintenance, and Replacement Account shall be used for Technology Trust Fund projects, systems, or initiatives.

25. General Fund and Road Fund Budget Reduction Plans and Orders: The General Assembly acknowledges that during fiscal year 2003-2004 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2002 General Assembly had enacted the legislative branch budget bill in 2002 Ky. Acts ch. 172 and the 2003 General Assembly had enacted the executive and judicial branch budget bills in 2003 Ky. Acts chs. 14 and 156 as contained in the Appendices to KRS Chapter 47 based upon the anticipated revenue estimates.

The 2003 General Assembly enacted the 2002-2004 biennium General Fund Budget Reduction Plan for fiscal year 2003-2004 in 2003 Ky. Acts ch. 156, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for their respective branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised General Fund appropriation levels for the budget units of the Executive Branch identified in General Fund Budget Reduction Order 04-01 and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 04-01.

The 2003 General Assembly enacted the 2002-2004 biennium Road Fund Budget Reduction Plan for fiscal year 2003-2004 in 2003 Ky. Acts ch. 156, Part VII, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriation levels for the budget units of the Executive Branch identified in Road Fund Budget Reduction Order 04-01 and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 04-01.

**Fiscal Biennium 2004-2006
BUDGET MODIFICATION REPORT**

Part III – GENERAL PROVISIONS

26. State Purchases of Motor Vehicle Liability Insurance: Notwithstanding any provision of the Kentucky Revised Statutes, to the extent that any governmental agency purchases motor vehicle liability insurance, sovereign immunity shall be waived to the extent of the insurance coverage.

27. Excess Tobacco Master Settlement Agreement Funds: Notwithstanding KRS 248.654, all Master Settlement Agreement - Phase I payments in excess of the amounts appropriated in Part I, Operating Budget, of this Act shall be retained in the General Fund.

28. Sales and Use Tax Collection and Remittance Compensation: Notwithstanding KRS 139.570, for the periods after June 30, 2005, the total reimbursement allowed per taxpayer in any month shall not exceed \$1,500. Notwithstanding KRS 139.240, 139.250 or 139.700, after the effective date of this Act, separate permit numbers for a taxpayer with different business locations shall not be issued.

29. Abandoned Property Receipts/General Fund: Notwithstanding KRS 393.015, all abandoned property receipts collected, net of claims paid, in fiscal year 2004-2005 and fiscal year 2005-2006 shall be available for appropriation to the General Fund.

30. Abandoned Property Held by Financial Institutions: Notwithstanding KRS 393.060, the dormancy period for property held or owing by a banking or financial institution, other than traveler's checks, shall be three years rather than seven years.

31. Sale of Abandoned Property by Treasury Department: Notwithstanding KRS 393.125, the department, within three years of the receipt of abandoned property, shall sell the property. A person making a claim of securities held less than three years by the department and sold by the department shall only be entitled to the proceeds of the sale of securities, less any deduction for expenses of the sale.

32. Deduction for Taxes Paid to Foreign Countries: Notwithstanding KRS 141.010(11)(a), effective for taxable years beginning after December 31, 2003, the deduction for taxes paid to foreign countries is not allowable.

33. Sales and Use Tax on Natural Gas Distribution Services: Notwithstanding KRS 139.200, effective June 1, 2005, distribution, transmission or transportation services for natural gas that is for storage, use or otherwise consumption in this state shall be retail sales subject to sales and use tax except for charges for these services to a seller or re-seller of natural gas or to residential customers as defined in KRS 139.470(8).

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BUDGET MODIFICATION REPORT**

Part III – GENERAL PROVISIONS

34. Premium and Retaliatory Taxes: Notwithstanding KRS 304.17B-021(4)(d), premium taxes collected under KRS Chapter 136 from any insurer and retaliatory taxes collected under KRS 304.3-270 from any insurer shall be credited to the General Fund.

35. Refund of Sales Tax Paid on Communication Services: Notwithstanding KRS 139.505, all applicants filing on or after June 1, 2003, for the refundable credit for sales tax paid on communications service shall comply with the following: any business whose interstate communications service, subject to the sales tax imposed under KRS Chapter 139 and deducted for federal income tax purposes, exceeds five percent of the business's Kentucky gross receipts during the preceding calendar year is entitled to a refundable credit if the business's annual Kentucky gross receipts are equal to or more than \$1,000,000, and the majority of the interstate communications service billed to a Kentucky service address for the annual period is for communications service originating outside of this state and terminating in this state.

The refundable credit shall be equal only to the sales tax paid on the difference by which the interstate communications service purchased by the business exceeds five percent of the business's Kentucky gross receipts.

To facilitate the administration of the refundable tax credit, the Department of Revenue shall grant eligible businesses which apply for the tax credit permission to directly report and pay the sales tax applicable to the purchase of communications service. Once the business receives permission to directly report and pay the tax, refunds of the tax paid on communications service shall not include any sales tax collected and paid by a communications service provider to the Department of Revenue.

36. Motor Fuels: Notwithstanding KRS 138.210(10) and 138.220, for the purpose of establishing the floor for calculating the excise tax, the average wholesale price shall not be less than \$1.22.

37. Motor Vehicle Usage Tax At Titling: Notwithstanding KRS 138.450, 138.460, 138.465, and 138.470:

- (1) The motor vehicle usage tax shall be computed and collected at the time of titling of the vehicle; and
- (2) Motor vehicles titled but not registered which are to be held for a period of less than 180 days for the purpose of repair, transport, or resale and which will be driven no more than 100 miles by the new title holder shall not have to pay the usage tax at the time of titling. If such vehicles are subsequently registered or driven for more than 100 miles, the owner shall be responsible for payment of the tax that would have been paid when the vehicle was titled.

Fiscal Biennium 2004-2006
BUDGET MODIFICATION REPORT

Part III – GENERAL PROVISIONS

38. Reallocation of Appropriations Among Budget Units: The Executive Branch shall implement appropriate actions necessary to operate within the appropriations authorized in this Act. The General Assembly recognizes that Executive Branch agency heads may determine it to be necessary to modify the actual budget unit expenditure totals within each cabinet and agency in order to manage within the available resources provided in this Act in order to execute prescribed administrative and program directives. Notwithstanding KRS 48.140(7), the Secretary of any cabinet, the Commissioner of the Department of Education, and other agency heads are authorized to request revisions or reallocations in appropriation authority among budget units under their administrative authority for the purpose of implementing this Act. Prior to requesting any reallocation between appropriation units, the Secretary of any cabinet, the Commissioner of the Department of Education, and other agency heads shall submit a request to the Office of State Budget Director to transfer General Fund and Restricted Funds appropriation authority within their respective cabinet or agency. Such requests shall specify the need for the transfer of the authority. Any transfers made within the respective cabinet or agency under this section for any cabinet, agency, or the Department of Education shall result in no change to the total amounts appropriated. Any transfers made within the respective cabinet or agency under this section shall be made pursuant to KRS 48.500 and shall be reported, in writing, to the Interim Joint Committee on Appropriations and Revenue.

39. Appropriation of Budget Reserve Trust Fund: Pursuant to KRS 48.705, \$13,277,300 from the Budget Reserve Trust Fund is available in fiscal year 2004-2005 to be appropriated by the General Assembly in this Act.

40. Designated General Fund Carry Forward: Notwithstanding KRS 48.700, KRS 48.705 and the provisions of Parts I, II, and VII of this Act, a total of \$192,531,100 in the undesignated fiscal year 2004-2005 General Fund balance shall be carried forward and is appropriated in fiscal year 2005-2006.

HOUSE REPORT

The House concurs with the Bill as Introduced with the following changes:

The following language was amended and renumbering occurred, where applicable:

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7. Lapse of Excess General Fund or Road Fund Debt Service Appropriations: Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

24. General Fund and Road Fund Budget Reduction Plans and Orders : The General Assembly acknowledges that during fiscal year 2003-2004 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2002 General Assembly had enacted the legislative branch budget bill in 2002 Ky. Acts ch. 172 and the 2003 General Assembly had enacted the executive and judicial branch budget bills in 2003 Ky. Acts chs. 14 and 156 as contained in the Appendices to KRS Chapter 47 based upon the anticipated revenue estimates.

The 2003 General Assembly enacted the 2002-2004 biennium General Fund Budget Reduction Plan for fiscal year 2003-2004 in 2003 Ky. Acts ch. 156, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for their respective branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, and except as otherwise modified by this Act, the General Assembly confirms, adopts, and enacts the revised General Fund appropriation levels for the budget units of the Executive Branch identified in General Fund Budget Reduction Order 04-01 and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 04-01.

The 2003 General Assembly enacted the 2002-2004 biennium Road Fund Budget Reduction Plan for fiscal year 2003-2004 in 2003 Ky. Acts ch. 156, Part VII, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, and except as otherwise modified by this Act, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriation levels for the budget units of the Executive Branch identified in Road Fund Budget Reduction Order 04-01 and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 04-01.

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36. Reallocation of Appropriations Among Budget Units: The Executive Branch shall operate within the appropriations authorized in this Act for each budget unit as prescribed by KRS 48.400 to 48.730, subject to the conditions and procedures stated in this section or other Parts of this Act.

The Secretary of a Cabinet, the Commissioner of the Department of Education, and other agency heads may request, prior to December 1, 2005, a revision or reallocation among budget units under their administrative authority of up to ten percent of General Fund or Restricted Funds appropriations contained in Part I, Operating Budget, of this Act for fiscal year 2004-2005 and fiscal year 2005-2006. No request shall relate to moneys in a fiduciary fund account unless the account is affected by a reorganization order promulgated under KRS 12.027. Any request which shall be submitted to and, if authorized by the State Budget Director, shall be implemented and executed prior to December 15, 2005. A request shall explain the need and use for the transfer authority under this section.

The amount of transfer of General Fund and Restricted Funds appropriations shall be made by Executive Order of the Governor and shall be separately recorded and reported in the system of financial accounts and reports provided in KRS Chapter 45.

No transfer shall result in any reduction to an item of appropriation contained in Part I, Operating Budget, of this Act. The State Budget Director shall report a revision or transfer made under this section, in writing, to the Interim Joint Committee on Appropriations and Revenue at least 30 days prior to the proposed transfer. The Committee shall review the transfer in the same manner and procedure as provided for an interim unbudgeted appropriation action under KRS 48.630.

55. Continuation of Public Services: The General Assembly hereby appropriates for fiscal year 2004-2005 funds required for those expenditures that have been approved by the Secretary of the Finance and Administration Cabinet and which have been paid, or for which a check has been written by the Office of the State Treasurer.

The General Assembly hereby appropriates for fiscal year 2004-2005 funds for those expenditures for which a Memorandum of Agreement has been approved by the Secretary of the Finance and Administration Cabinet and the Government Contract Review Committee of the Legislative Research Commission, except as modified by the provisions of this Act or for which the funding source has been changed.

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The provisions of this section shall apply to periods preceding the effective date of this Act.

57. Designated General Fund Carry Forward: Notwithstanding KRS 48.700 and 48.705 and other Parts of this Act, the Secretary of the Finance and Administration Cabinet shall determine and certify, within 30 days of the close of fiscal year 2004-2005, the actual amount of undesignated balance of the General Fund for the year just ended. The amounts from the undesignated fiscal year 2004-2005 General Fund balances (General Fund Surplus Account, KRS 48.700) that are designated and carried forward for budgeted purposes in the 2004-2006 fiscal biennium shall be determined by the State Budget Director during the close of the respective fiscal year and shall be reported to the Interim Joint Committee on Appropriations and Revenue within 30 days of the close of the fiscal year. The General Fund undesignated balance in excess of the amount designated for budgeted purposes under this section shall be made available for the General Fund Surplus Expenditure Plan contained in Part VII of this Act unless otherwise provided in this Act.

The following language was deleted:

37. The language pertaining to Motor Vehicle Usage Tax at Titling was deleted.

The following language was added.

37. Use Tax on Sales of Printing or Direct Mail Advertising Materials: Notwithstanding KRS 139.340, a commercial printer or mailer engaged in business in this state shall not be required to collect use tax on sales of printing or direct mail advertising materials that are both printed out of state and delivered out of state to the United States Postal Service for mass mailing to third-party Kentucky residents who are not purchasers of the advertising materials if the commercial printers or mailers:

- a. Maintain records relating to these sales to assist in the collection of the use tax owed; and
- b. File reports as provided in KRS 139.730 if requested by the Revenue Cabinet.

If the commercial printer or mailer complies with these reporting provisions, the purchaser of the printing or direct mail advertising materials described in this section shall have sole responsibility for payment of the use tax imposed in KRS 139.310.

38. Contract Expenses: The General Assembly declares that the financial condition of the Commonwealth requires that expenditures for contractual expenses be restricted as provided in this section. For fiscal year 2005-2006, the total dollars authorized

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for expenditures for Personal Service Contracts and Memoranda of Agreement shall not exceed the total expenditures for each category in fiscal year 2004-2005. For purposes of this provision, the expenditure limitation shall be based on Personal Service Contracts and Memoranda of Agreement reportable to the Government Contract Review Committee. The expenditure limitation shall not be applied to Medicaid managed care contracts. In addition, the expenditure limitation may be exceeded if necessary to avoid the loss of Federal Funds or for emergencies solely related to public health or safety, legal defense, or other extraordinary circumstance. If an exception is authorized by the Secretary of the Finance and Administration Cabinet, the Legislative Research Commission shall be notified at the time such action is taken.

39. Office Space: Pursuant to KRS 56.463(4)(b), the legislative branch had and has the legal authority to occupy certain space in the New State Capitol Annex, as of certain occupancy dates described by the October 1, 2003, Resolution of the Legislative Research Commission. On or before September 1, 2005, the Secretary of the Finance and Administration Cabinet shall ensure that the New State Capitol Annex space allocated to the legislative branch by KRS 56.463(4)(b), and designated for occupancy by the October 1, 2003, Resolution of the Legislative Research Commission adopted pursuant to KRS 56.463(4)(b) and as specified in subsections (a) through (c) below, shall be vacated by the executive branch and available for immediate occupancy by the legislative branch as follows:

- (a) The legislative branch shall occupy the following additional space on the first floor of the Capitol Annex: Going west from the center (north/south) hallway on the first floor, all space (approximately 12,032 square feet) south of the east/west hallway to and including the eighth pilaster, except for the elevators, public restrooms, and mechanical maintenance areas. The occupancy of the space described in this subsection shall be effective on or before September 1, 2005;
- (b) The legislative branch shall occupy the following additional space in the basement of the New State Capitol Annex: In the east/west hallway, west of the center (north/south) hallway in the basement, all space (approximately 2,248 square feet) in the area between the LRC Computer Room and the Mechanical Room (Room 079), and which is currently referred to as Rooms 069, 071, 073, and 075. The occupancy of the space described in this subsection shall be effective on or before September 1, 2005; and
- (c) The legislative branch shall occupy the following additional space on the second, third, and fourth floors of the New State Capitol Annex: Going west from the center (north/south) hallway on each floor, all space (approximately 11,648 square feet on each floor) north and south of the east/west hallway to and including the ninth pilaster, except for the elevators, public restrooms, and mechanical maintenance areas. The occupancy of the space described in this subsection shall be effective on or before September 1,

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2005.

The Secretary of the Finance and Administration Cabinet shall be authorized to lease such additional space as may be necessary to comply with the provisions of this section.

Expenditures required by the implementation of this section by the executive branch shall be deemed necessary government expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) or, if the expenditures required to implement this section exceed the funds available in those accounts, notwithstanding KRS 45.770, the Finance and Administration Cabinet shall transfer sufficient funds in the Capital Construction and Equipment Purchase Contingency Account to a capital project account to be used for expenditures necessary to implement the requirements of this section. Prior to making a transfer, the Finance and Administration Cabinet shall present the proposed transfer to the Capital Projects and Bond Oversight Committee for review at least 14 days prior to a meeting of the committee as required by KRS 45.800. No portion of funds transferred for this purpose shall be used for capital improvements or any other purpose.

If the Secretary of the Finance and Administration Cabinet fails or refuses to fully and timely comply with the requirements of this section, the Legislative Research Commission may petition the Franklin Circuit Court for a writ of mandamus to compel the Secretary's compliance with the requirements of this section.

Any expenditure authorized by the Legislative Research Commission relating to implementation of KRS 56.463(4)(b) and funded by previous appropriations to the legislative branch shall not be governed by KRS 7A.010, 7A.120, 45.750 to 45.810, 48.010(14), and 48.020.

40. Unclassified Employees: Effective July 1, 2005, the number of unclassified employees shall not exceed the number of filled unclassified positions as of December 1, 2004. The Governor shall direct all agencies of the Executive Branch, including Constitutional Officers, as to the number of unclassified positions for each agency. For purposes of this provision, unclassified employees shall be defined as Cabinet Secretaries, Deputy Secretaries, Commissioners, Deputy Commissioners, Executive Directors, Deputy Executive Directors, Division Directors, Principal Assistants, General Counsels, Special Assistants, Policy Advisors, Executive Assistants, or any other position subject to the provisions of KRS 11.040(1) or 12.050.

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41. Reduction In State Utility Costs: The Finance and Administration Cabinet is hereby directed to continue to review current practices to reduce energy costs to achieve a government-wide savings of total utility costs. The Cabinet is empowered to utilize expertise in the Department of Natural Resources, the Public Service Commission, and other agencies to accomplish this goal.

42. Cellular Telephones/Electronic Devices: By 90 days after the effective date of this Act, the Secretary of the Finance and Administration Cabinet shall review the use of cellular telephones and other types of electronic communication devices and issue guidelines to state agencies specifying criteria to document the need for such equipment. A copy of the guidelines shall be transmitted to the Interim Joint Committee on Appropriations and Revenue at the time of issuance.

43. Permanently Assigned Vehicles: The Secretary of the Finance and Administration Cabinet and the Secretary of the Transportation Cabinet shall not authorize any permanently assigned vehicles, except to the Court of Justice, Secretaries of the Executive Cabinet, and for law enforcement or other public safety purposes.

44. Sole Source Contracts: Notwithstanding KRS 45A.095:

- a. A contract may be made by noncompetitive negotiation only:
 - (1) For contractual services where no competition exists, such as electrical energy and other public utility services;
 - (2) Where rates are fixed by law or ordinance;
 - (3) For library books;
 - (4) For commercial items that are purchased for resale;
 - (5) For interests in real property;
 - (6) For visiting speakers, professors, expert witnesses, and performing artists;
 - (7) For personal service contracts executed pursuant to KRS 45A.690(1)(d) and (f) and 45A.720;
 - (8) For agricultural products in accordance with KRS 45A.645; or
 - (9) For an emergency;
- b. The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer may make or authorize others to make emergency procurements when an emergency exists;

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- c. "Emergency" means any incident or situation which poses a major threat to public safety so as to cause, or threaten to cause, loss of life, serious injury, significant damage to property, or major harm to public health or the environment;
- d. The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the Secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state; and
- e. The following entities may use noncompetitive negotiation for sole source purchases when competition is not feasible or when an emergency exists:
- (1) Governing boards of state universities in accordance with KRS 164A.575; and
 - (2) Any other contracting body, as defined in KRS 45A.690, that has statutory exemptions from KRS Chapter 45A.

Sole source is a situation in which there is only one known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions. Insofar as it is practical, no fewer than three suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Awards shall be made to the supplier offering the best value. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record.

45. Furniture Purchases: The General Assembly declares that the financial condition of the Commonwealth requires that, notwithstanding KRS 45.760(12) and (14), no state agency shall purchase new equipment or furniture unless the item must be replaced due to damage or loss, unless the Secretary of the Finance and Administration Cabinet approves the equipment or furniture purchase based on documentation of the necessity and impact on government services if the purchase is not made. If a purchase is authorized, the Division of Correctional Industries or the Division of Surplus Property shall be utilized whenever possible.

46. Printing: The General Assembly declares that the financial condition of the Commonwealth requires that the Secretary of the Finance and Administration Cabinet shall review all state printing, including publications and the associated cost of storage and

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distribution, and direct all state agencies to use Internet and other electronic technology to provide public access to the fullest extent possible in order to reduce costs. The Secretary is further directed to reduce printing-related expenses by 25 percent in each fiscal year.

47. Travel Expenditures: All state agencies shall continue to monitor all travel expenditures and shall utilize state parks or other state facilities to the fullest extent feasible. The Secretary of the Finance and Administration Cabinet shall review all out-of-state travel requests for three or more state employees to attend the same destination or event and shall approve the requests if deemed necessary.

48. Privatization: The Legislative Research Commission is directed to establish a Task Force on Privatization to study, analyze, and assess the utilization of privatization in Kentucky State government and report to the Governor and to the Legislative Research Commission for referral to the Interim Joint Committee on State Government by October 1, 2005.

The task force shall be composed of the following members:

- (1) Five members of the Senate appointed by the President of the Senate, at least two of whom shall be members of the minority party in the Senate;
- (2) Five members of the House of Representatives appointed by the Speaker of the House, at least two of whom shall be members of the minority party in the House of Representatives;
- (3) The Secretary of the Finance and Administration Cabinet or a designee;
- (4) The Auditor of Public Accounts or a designee;
- (5) Two representatives of the Finance and Administration Cabinet with experience and expertise in government contracting appointed by the Legislative Research Commission upon consultation with the Secretary of the Finance and Administration Cabinet, one of whom shall be the head of the organizational unit in that cabinet with responsibilities for procurement and contracting, and one of whom shall have expertise and experience in state government auditing, accounting, and budgeting;
- (6) Two representatives of the state's business community with interest or experience in contracting with Kentucky government, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives;
- (7) One representative of state employees appointed by the Legislative Research Commission;
- (8) One representative of Common Cause in Kentucky appointed by the Legislative Research Commission;
- (9) One representative of the Justice Cabinet who has expertise and experience in a privatization initiative appointed by the Legislative Research Commission; and

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(10) One representative of the Health and Family Services Cabinet who has expertise and experience in a privatization initiative appointed by the Legislative Research Commission.

Co-chairs of the task force shall be appointed from among the legislative members. One co-chair shall be a member of the Senate appointed by the President of the Senate, and one co-chair shall be a member of the House of Representatives appointed by the Speaker of the House of Representatives.

The duties of the task force shall include but not limited to the following:

- (1) Conducting a general overview of privatization, including such aspects as the types of privatization; current policies, administrative regulations, and applicable Kentucky statutes and constitutional provisions; published studies, reports, findings, or recommendations regarding privatization;
- (2) Reviewing other states' policies, laws, and regulations regarding privatization;
- (3) Identifying, examining, and evaluating Kentucky's experiences in privatization;
- (4) Determining what lessons can be learned from the privatization experiences of Kentucky and other states;
- (5) Identifying the role of government under privatization, with a focus on the functions and services that government must perform by itself for public interest and the functions and services that the private sector can perform at a lower cost, or perform better for the same cost, to taxpayers; and
- (6) Identifying policies, procedures, and legislation that would ensure that privatization activities of Kentucky state government result in:
 - (a) Reliable, measurable cost savings;
 - (b) More or better services for the taxpayers' money;
 - (c) State government accountability for the performance of a private contractor, as documented by government's ongoing professional monitoring;
 - (d) Protection of state government's assets;
 - (e) Noninterruption of services of Kentuckians; and
 - (f) Fair treatment for state employees.

The task force shall report its findings and recommendations, including any proposed legislation by October 1, 2005, to the Governor and to the Legislative Research Commission for referral to and review by the Interim Joint Committee on State Government.

Provisions to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

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- 49. School District Efficiency and Effectiveness Review:** The Office of Education Accountability is directed to conduct an inventory and assessment of indicators that may be used to analyze financial, academic, and demographic data in order to evaluate school performance. The inventory and assessment shall be under the direction of the Education Assessment and Accountability Review Subcommittee pursuant to KRS 7.410. With approval of the Subcommittee and the Legislative Research Commission, funds may be used to contract for special expertise in the area of financial or performance reviews.
- 50. Payment of Excise Tax by Harness Racetracks:** Notwithstanding KRS 138.510, for fiscal year 2004-2005 and fiscal year 2005-2006, all harness racetracks licensed by the Kentucky Horse Racing Authority shall not be required to pay the excise tax imposed under KRS 138.510(2) and that amount that would have been paid shall be retained by the track to promote and maintain its facilities and its live meet.
- 51. Joint System of Park and Recreational Facilities:** Notwithstanding KRS 97.035, any city, except a city of the first class, and a county, except a county containing a city of the first class, operating a joint park and recreational system under this section may by joint action create a joint city/county department to maintain and conduct a park and recreational system. In such event, the joint city/county park and recreational system board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of city and county.
- 52. Review of Bonds:** The 2006 General Assembly shall review all Capital Construction Projects authorized in this Act which have not been issued and may determine if economic conditions warrant the issuance of these bonds.
- 53. Blue Ribbon Panel on Public Employee Health Benefits:** The Blue Ribbon Panel on Public Employee Health Benefits, established in 2004 (Extra. Sess.) Ky. Acts ch 1, sec 7, subsec. (1), (HB 1) shall submit a written report and proposed legislation to the Legislative Research Commission, the Governor, and the Chief Justice of the Supreme Court no later than October 1, 2005.
- 54. Kentucky Wine and Vine Fest:** The Kentucky Wine and Vine Fest of Nicholasville, Kentucky, is named and designated as the official state wine festival.

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SENATE REPORT

The Senate concurs with the House Report with the following changes.

The following language was deleted and renumbering occurred, where applicable:

25. The language pertaining to State Purchase of Motor Vehicle Liability Insurance was deleted.
31. The language pertaining to Deduction for Taxes Paid to Foreign Countries was deleted.
32. The language pertaining to Sales and Use Tax on Natural Gas Distribution Services was deleted.
34. The language pertaining to Refund of Sales Tax paid on Communication Services was deleted.
35. The language pertaining to Motor Fuels was deleted.
38. The language pertaining to Contract Expenses was deleted.
40. The language pertaining to Unclassified Employees was deleted.
43. The language pertaining to Permanently Assigned Vehicles was deleted.
44. The language pertaining to Sole Source Contracts was deleted.
45. The language pertaining to Furniture Purchases was deleted.
48. The language pertaining to Privatization was deleted.
49. The language pertaining to School District Efficiency was deleted.

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- 50. The language pertaining to Payment of Excise Tax by Harness Race Tracks was deleted.
- 51. The language pertaining to Joint System of Park and Recreational Facilities was deleted.
- 52. The language pertaining to Review of Bonds was deleted.

The following items were amended:

24. General Fund and Road Fund Budget Reduction Plans and Orders: The General Assembly acknowledges that during fiscal year 2003-2004 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2002 General Assembly had enacted the legislative branch budget bill in 2002 Ky. Acts ch. 172 and the 2003 General Assembly had enacted the executive and judicial branch budget bills in 2003 Ky. Acts chs. 14 and 156 as contained in the Appendices to KRS Chapter 47 based upon the anticipated revenue estimates.

The 2003 General Assembly enacted the 2002-2004 biennium General Fund Budget Reduction Plan for fiscal year 2003-2004 in 2003 Ky. Acts ch. 156, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for their respective branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised General Fund appropriation levels for the budget units of the Executive Branch identified in General Fund Budget Reduction Order 04-01 and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 04-01.

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The 2003 General Assembly enacted the 2002-2004 biennium Road Fund Budget Reduction Plan for fiscal year 2003-2004 in 2003 Ky. Acts ch. 156, Part VII, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriation levels for the budget units of the Executive Branch identified in Road Fund Budget Reduction Order 04-01 and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 04-01.

31. Reallocation of Appropriations Among Budget Units: The Executive Branch shall implement appropriate actions necessary to operate within the appropriations authorized in this Act. The General Assembly recognizes that Executive Branch agency heads may determine it to be necessary to modify the actual budget unit expenditure totals within each cabinet and agency in order to manage within the available resources provided in this Act in order to execute prescribed administrative and program directives. Notwithstanding KRS 48.140(7), the Secretary of any cabinet, the Commissioner of the Department of Education, and other agency heads are authorized to request revisions or reallocations in appropriation authority among budget units under their administrative authority for the purpose of implementing this Act. Prior to requesting any reallocation between appropriation units, the Secretary of any cabinet, the Commissioner of the Department of Education, and other agency heads shall submit a request to the Office of State Budget Director to transfer General Fund and Restricted Funds appropriation authority within their respective cabinet or agency. Such requests shall specify the need for the transfer of the authority. Any transfers made within the respective cabinet or agency under this section for any cabinet, agency, or the Department of Education shall result in no change to the total amounts appropriated. Any transfers made within the respective cabinet or agency under this section shall be made pursuant to KRS 48.500 and shall be reported, in writing, to the Interim Joint Committee on Appropriations and Revenue.

36. Printing: The General Assembly declares that the financial condition of the Commonwealth requires that the Secretary of the Finance and Administration Cabinet shall review all state printing, including publications and the associated cost of storage, distribution, and advertising and direct all state agencies to use Internet and other electronic technology to provide public access to the fullest extent possible in order to reduce costs.

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38. Blue Ribbon Panel on Public Employee Health Benefits: The Blue Ribbon Panel on Public Employee Health Benefits, established in 2004 (Extra. Sess.) Ky. Acts ch 1, sec 7, subsec. (1), (HB 1) shall submit a written report and proposed legislation to the Legislative Research Commission, the Governor, and the Chief Justice of the Supreme Court no later than August 1, 2005.

43. Continuation of Public Services: The General Assembly hereby appropriates for fiscal year 2004-2005 funds required for those expenditures that have been approved by the Secretary of the Finance and Administration Cabinet and which have been paid, or for which a check has been written by the Office of the State Treasurer in accordance with Executive Order 2004-650, Executive Order 2004-1092, and Executive Order 2004-1373. Provisions of this section shall apply to periods preceding the effective date of this Act.

45. Undesignated General Fund Carry Forward: Notwithstanding KRS 48.700 and 48.705 and other Parts of this Act, the Secretary of the Finance and Administration Cabinet shall determine and certify, within 30 days of the close of fiscal year 2004-2005, the actual amount of undesignated balance of the General Fund for the year just ended. The amounts from the undesignated fiscal year 2004-2005 General Fund balances (General Fund Surplus Account, KRS 48.700) that are designated and carried forward for budgeted purposes in the 2004-2006 fiscal biennium shall be determined by the State Budget Director during the close of the respective fiscal year and shall be reported to the Interim Joint Committee on Appropriations and Revenue within 30 days of the close of the fiscal year. The General Fund undesignated balance in excess of the amount designated for budgeted purposes under this section shall be made available for the General Fund Surplus Expenditure Plan contained in Part VII of this Act unless otherwise provided in this Act.

The following language was added.

40. General Publishing: Notwithstanding KRS 65.070, 83A.060, 91A.040, 160.463, 424.180, 424.190, 424.220, 424.230, 424.250, 424.260, 424.270, 424.330, and 426.360, for public agencies that are otherwise required by law to advertise in a county with a consolidated local government or an urban-county government, any public availability to annual financial statements and other required legal advertising may be made available as prescribed by statute; however, a public agency in such a county may instead make the information available electronically on the Internet or by printed copy at a prearranged site at the public library. If a public agency selects the alternative for publication on the internet or printed copy at the public library, the agency head shall publish notification in the newspaper as prescribed by statute as to the location where the document can be viewed by the public. The notification shall include the address of the library or the electronic address of the Web site on the Internet where the documents can be reviewed.

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41. **Horse Cave Repertory Theatre:** The Horse Cave Repertory Theatre located in Hart County, Kentucky is named and designated as the official state repertory theatre.

42. **Payments in Lieu of Taxes:** Notwithstanding KRS 96.895, the payment amount calculated to be due any county, city, or school district shall not exceed \$2,500,000. The amount calculated in excess of \$2,500,000 for any county, city, or school district shall lapse to the credit of the General Fund.

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Part IV – STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

BILL AS INTRODUCED

The State/Executive Budget Bill, Part IV, State Salary/Compensation and Employment Policy, includes the following directives:

- 1. Maximum Filled Permanent Positions:** Notwithstanding KRS 18A.010(2), for the 2004-2006 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the Commonwealth for the 2004-2006 fiscal biennium. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice.
- 2. Authorized Personnel Complement:** On July 1, 2005, the Department of Personnel shall establish a record of authorized permanent and other equivalent positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of full-time, part-time, and interim employees shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Secretary of Personnel may authorize, the employment of individuals in addition to the authorized complement for the duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.
- 3. Cost-of-Living Adjustment:** Pursuant to 2004 (Extra. Sess.) Ky. Acts ch. 1, sec. 12, subsec. (1), a cost-of-living adjustment of two percent is provided in fiscal year 2004-2005 on the base salary or wages of each state employee on their anniversary date. In addition to the above salary adjustment, on January 1, 2005, an additional one percent increase is provided on the base salary or wages of each eligible state employee. Notwithstanding 18A.355(1), in fiscal year 2005-2006 a cost-of-living adjustment of two percent is provided on the base salary or wages of each state employee on their anniversary date.
- 4. State Salary and Compensation Fund:** The Secretary of Personnel in consultation with the State Budget Director, shall determine the amount of funds from the appropriation in Part I, Operating Budget, J. Personnel Cabinet, 5. State Salary and Compensation Fund, of this Act by budget unit necessary to provide for the cost-of-living adjustments. The State Salary and Compensation Fund shall be supplemented by Restricted Agency Funds, Federal Funds, the Road Fund, and other General Fund amounts otherwise appropriated to state agencies in order to provide for the cost-of-living adjustments.

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Part IV – STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

The Secretary of Personnel, upon approval by the State Budget Director, shall notify the Secretary of the Finance and Administration Cabinet of the respective amount of General Fund from the State Salary and Compensation Fund to transfer to each affected budget unit and such funds shall be transferred. The Secretary of Personnel and the State Budget Director shall report to the Interim Joint Committee on Appropriations and Revenue regarding the implementation of these provisions.

5. Employee Furloughs or Reductions in Hours: The General Assembly declares that the financial condition of the Commonwealth requires the following fiscal policies to be implemented and administered during the 2004-2006 fiscal biennium:

a. For purposes of this section:

(1) "Appointing authority" means the agency head as defined in KRS 18A.005(1) and 151B.010(1);

(2) A "furlough" or "reduction in hours" means that an appointing authority may temporarily reduce the number of hours that an employee is scheduled to work within a pay period if the Budget Reduction Plan or cost savings contemplated in this Act are not achieved. In the case of an employee who is considered "salaried" or "exempt" from the coverage of the Fair Labor Standards Act, 29 U.S.C. sec. 201, et seq., the length of a furlough shall not be less than a work week;

(3) A "lack of funds" means an appointing authority has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations; and

(4) A "lack of work" means an operating authority has a current or projected decrease in the workload, which requires a reduction of current or projected staffing levels.

b. Notwithstanding any other provision of law, an appointing authority, with the approval of the Secretary of Personnel or, in the case of employees governed by KRS Chapter 151B, the Kentucky Technical Education Personnel Board, may temporarily reduce the hours of work assigned to employees due to:

(1) Lack of work;

(2) Seasonal changes in demand for services; or

(3) A current or projected deficiency of funding necessary to maintain current, or to sustain projected, levels of staffing and operations.

c. An employee whose hours of work are temporarily reduced by the appointing authority pursuant to this section shall be notified in writing of the reduced schedule of work, the reasons for the reduction, and the reasons for the employee's selection.

d. Notwithstanding any other provision of law, an employee whose hours of work are temporarily reduced by the appointing authority pursuant to this section:

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Part IV – STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

(1) Shall remain eligible for state-paid benefits during the temporary reduction of hours; and

(2) Shall not be entitled to appeal the reduction to the Personnel Board or, in the case of employees governed by KRS Chapter 151B, the Kentucky Technical Education Personnel Board, unless the length of the furlough exceeds ten consecutive working days.

e. Whenever a furlough is necessary, the appointing authority of an agency shall decide in which county or facility and within which classifications the furlough will occur, and the number of employees to be furloughed within each affected county, facility, or classification. The order of furlough shall be based on length of service and relative qualifications to perform the essential functions of any positions that remain in operation within the agency, county, or facility.

f. An employee subject to KRS Chapter 18A who has been furloughed for more than ten consecutive working days, and who believes that the furlough was unwarranted under the provisions of this section or that the appointing authority failed to properly apply the criteria established by this section in determining the order of furlough, may appeal to the Personnel Board within 30 days of the date the notice of furlough was mailed or delivered by the appointing authority. An employee shall not have the right to appear before the appointing authority prior to furlough. In all other respects, the provisions of KRS 18A.095 shall govern appeals based on furloughs.

g. An employee subject to KRS Chapter 151B who has been furloughed more than ten consecutive working days, and who believes that the furlough was unwarranted under the provisions of this section or that the appointing authority failed to properly apply the criteria established in this subsection in determining the order of furlough, may appeal to the Kentucky Technical Education Personnel Board within 30 days of the date the notice of furlough was mailed or delivered by the appointing authority. An employee shall not have the right to appear before the appointing authority prior to furlough. In all other respects, the provisions of KRS 151B.060 shall govern appeals based on furlough.

h. Notwithstanding any other provision of law, an employee participating in one of the state retirement systems who is furloughed to the extent of working less than 100 hours per month shall, upon return to regular hours, have the right to purchase service credit by paying the employee contributions on the difference between the creditable compensation that would have been paid had the employee not been furloughed and the actual compensation received for the period the employee was placed on furlough and worked less than 100 hours. If the employee elects to purchase service credit, the employing agency shall pay the employer contributions for the period purchased by the employee.

i. The Secretary of Personnel shall promulgate an administrative regulation to implement a furlough program. The administrative regulation shall include a provision authorizing employees to elect to voluntarily participate in a furlough program.

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BUDGET MODIFICATION REPORT**

Part IV – STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

6. Monthly Per Employee Health Insurance Benefits Assessment: The Personnel Cabinet shall collect a benefits assessment per month per employee eligible for health insurance coverage in the state group as contained in Appendix B of the budget instructions promulgated by the Legislative Research Commission pursuant to KRS 48.040 and communicated to agencies by the Office of State Budget Director for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program.

7. State Group Health Insurance Fund: It is the intent of the General Assembly to maintain the same level of benefits in Plan Year 2006 as provided in Plan Year 2005 in accordance with 2004 (Extra. Sess.) Ky. Acts ch. 1 (HB 1). Supplemental health insurance funding in fiscal year 2005-2006 is provided in Part I, Operating Budget, J. Personnel Cabinet, 6. State Group Health Insurance Fund, of this Act for state agencies, quasi-governmental agencies, Public Health Departments, and the Kentucky Community and Technical College System. The Secretary of Personnel, in consultation with the State Budget Director, shall determine the amount of funds necessary by budget unit to provide for the health insurance adjustment. The supplemental funding shall be augmented by Restricted Funds, Federal Funds, the Road Fund, and other General Fund amounts otherwise appropriated to state agencies in order to provide for the health insurance adjustment.

The Secretary of Personnel, upon approval by the State Budget Director, shall notify the Secretary of the Finance and Administration Cabinet of the respective supplemental amounts of General Fund from the State Group Health Insurance Fund to be transferred to each affected budget unit, and such funds shall be transferred. The Secretary of Personnel and the State Budget Director shall report to the Interim Joint Committee on Appropriations and Revenue regarding the implementation of this provision.

8. Employer Retirement Contribution Rates: 2004 (Extra. Sess.) Ky. Acts ch. 1, sec. 9 adopted the employer contribution rates for the fiscal biennium 2004-2006. From July 1, 2004, through June 30, 2005, the contribution rates shall be no more than 5.89 percent for nonhazardous duty employees, 18.84 percent for hazardous duty employees, and 21.58 percent for employees of the State Police Retirement System. This provision shall be retroactive to July 1, 2004. Pursuant to that Act, from July 1, 2005, through June 30, 2006, the employer contribution rate shall be no more than 5.89 percent for nonhazardous duty employees, 18.84 percent for hazardous duty employees, and 21.58 percent for employees of the State Police Retirement System.

HOUSE REPORT

The House concurs with the Bill as Introduced with the following changes:

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BUDGET MODIFICATION REPORT**

Part IV – STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

The House does not concur with item **5. Employee Furloughs or Reduction in Hours.**

The House revises the following language provisions:

"State Group Health Insurance Fund: It is the intent of the General Assembly to maintain the same level of benefits, copayments, deductibles, maximum out-of-pocket expense, and other features in Plan Year 2006 as provided in Plan Year 2005 in accordance with 2004 (Extra. Sess.) Ky. Acts ch. 1 (HB 1). Supplemental health insurance funding in fiscal year 2005-2006 is provided in Part I, Operating Budget, J. Personnel Cabinet, 6. State Group Health Insurance Fund, of this Act for state agencies, quasi-governmental agencies, Public Health Departments, and the Kentucky Community and Technical College System. The Secretary of Personnel, in consultation with the State Budget Director, shall determine the amount of funds necessary by budget unit to provide for the health insurance adjustment. The supplemental funding shall be augmented by Restricted Funds, Federal Funds, the Road Fund, and other General Fund amounts otherwise appropriated to state agencies in order to provide for the health insurance adjustment.

The Secretary of Personnel, upon approval by the State Budget Director, shall notify the Secretary of the Finance and Administration Cabinet of the respective supplemental amounts of General Fund from the State Group Health Insurance Fund to be transferred to each affected budget unit, and such funds shall be transferred. The Secretary of Personnel and the State Budget Director shall report to the Interim Joint Committee on Appropriations and Revenue regarding the implementation of this provision."

The House adds the following language provisions:

"Employee Cross Reference: The Personnel Cabinet shall permit married couples who are both eligible to participate in the state health insurance plan to be covered under one family health benefit plan and to apply each employer contribution for the single premium of the plan they select toward family coverage, not to exceed the total premium."

"Flexible Spending Account: For employees of the state and employees of local school boards who are eligible to participate in the state health insurance program and who waive coverage under the program, the state shall contribute \$234 per month to the employee's flexible spending account during Plan Year 2006."

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Part IV – STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

Cost-of-Living Adjustment: Pursuant to 2004 (Extra. Sess.) Ky. Acts ch. 1, sec. 12, subsec. (1), a cost-of-living adjustment of two percent is provided in fiscal year 2004-2005 on the base salary or wages of each state employee on their anniversary date. In addition to the above salary adjustment, on January 1, 2005, an additional one percent increase is provided on the base salary or wages of each eligible state employee. Notwithstanding 18A.355(1), in fiscal year 2005-2006 a cost-of-living adjustment of three percent is provided on the base salary or wages of each state employee on their anniversary date.

SENATE REPORT

The Senate concurs with the House report.

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BUDGET MODIFICATION REPORT**

Part VI – General Fund Budget Reduction Plan

BILL AS INTRODUCED

The State/Executive Branch Budget Bill, Part VI, General Fund Budget Reduction Plan, include the following directives:

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of \$7,449,855,500 in fiscal year 2004-2005 and \$7,704,846,700 in fiscal year 2005-2006 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. Each branch head shall prepare a specific plan to address a proportionate share of the General Fund revenue shortfall applicable to the respective branch. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act.

(2) Transfers of excess unappropriated and unbudgeted Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units.

(3) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth.

(4) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed 25 percent of the trust fund

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BUDGET MODIFICATION REPORT**

Part VI – General Fund Budget Reduction Plan

balance in fiscal year 2004-2005 and 50 percent of the trust fund balance in fiscal year 2005-2006.

(5) Notwithstanding KRS 48.130 and 48.600, if the actions contained in subsections (1) to (4) of this section are insufficient to eliminate an actual or projected revenue shortfall in the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in this Part.

HOUSE REPORT

The House concurs with the Bill as Introduced.

SENATE REPORT

The Senate concurs with the House.

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BUDGET MODIFICATION REPORT**

Part VII – General Fund Surplus Expenditure Plan

BILL AS INTRODUCED

The State/Executive Branch Budget Bill, Part VII, General Fund Surplus Expenditure Plan, include the following directives:

"(1) Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Expenditure Plan contained in this Part for fiscal years 2004-2005 and 2005-2006. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance in excess of the amount specified in Part III, General Provisions, Section 40, of this Act are appropriated to the following: (a) Necessary Government Expenses including, but not limited to, Emergency Orders formally declared by the Governor in an Executive Order; (b) The amount of a funding shortage in the Medicaid program not susceptible to timely or sufficient management control or adjustment as certified as to necessity and amount by the Secretary of the Health and Family Services Cabinet and approved by the State Budget Director; (c) Additional funding to public education (P-16) necessary to return base appropriations to the pre-Budget Reduction Order/Stability Initiative of fiscal year 2003-2004; (d) Capital projects and/or capital investments necessary to attract, retain, or support extraordinary employment and economic opportunities for which no other funding source is available; (e) Increased funding necessary to increase certified classroom teacher salaries to the average level of the contiguous states; and (f) Increased support to the Budget Reserve Trust Fund up to an amount necessary to provide a balance equaling 1.5 percent of estimated General Fund revenues for fiscal year 2005-2006.

(2) The Secretary of the Finance and Administration Cabinet shall determine, within 30 days after the close of the fiscal year 2004-2005, and the close of fiscal year 2005-2006, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for expenditure pursuant to the Plan respectively in fiscal year 2004-2005 and fiscal year 2005-2006. The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2004, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for expenditure in fiscal year 2004-2005 pursuant to the Plan. "

**Fiscal Biennium 2004-2006
BUDGET MODIFICATION REPORT**

Part VII – General Fund Surplus Expenditure Plan

HOUSE REPORT

The House concurs with the Bill as Introduced with the following changes:

The House amends the General Fund Surplus Expenditure Plan to place in priority order those actions that will be taken if the undesignated fund balance is in excess of the amount specified in Part III, General Provisions, Section 40, of this Act. The priority established by the House is as follows: (1) Increased funding necessary to increase certified teacher salaries to the average level of the contiguous states; (2) Additional funding to public education (P-16) necessary to return base appropriations to the pre-Budget Reduction Order/Stability Initiative of fiscal year 2003-2004; (3) The amount of a funding shortage in the Medicaid program not susceptible to timely or sufficient management control or adjustment as certified as to necessity and amount by the Secretary of the Health and Family Services Cabinet and approved by the State Budget Director; (4) Necessary Government Expenses included, but not limited to, Emergency Orders formally declared by the Governor in an Executive Order; and (5) Increased support to the Budget Reserve Trust Fund up to an amount necessary to provide a balance equaling 1.5 percent of estimated General Fund revenues for fiscal year 2005-2006.

SENATE REPORT

The Senate concurs with the Bill as Introduced.

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BUDGET MODIFICATION REPORT**

Part VIII - Road Fund Budget Reduction Plan

BILL AS INTRODUCED

The State/Executive Branch Budget Bill, Part VIII, Road Fund Budget Reduction Plan, includes the following directives to the actions to be taken in the event of an actual or projected deficit in estimated Road Fund revenue receipts::

"There is established a Road Fund Budget Reduction Plan for fiscal year 2004-2005 and fiscal year 2005-2006. Notwithstanding KRS 48.130, in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of \$1,142,714,600 in fiscal year 2004-2005 and \$1,180,376,500 in fiscal year 2005-2005-2006 as determined by KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service. No budget revision action shall be taken in excess of the actual or projected deficit."

HOUSE REPORT

The House concurs with the Bill as Introduced with the following change:

"There is established a Road Fund Budget Reduction Plan for fiscal year 2004-2005 and fiscal year 2005-2006. Notwithstanding KRS 48.130, in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of \$1,142,714,600 in fiscal year 2004-2005 and \$1,156,019,200 in fiscal year 2005-2005-2006 as determined by KRS 48.120(3), the overnor shall implement sufficient reductions as may be required to protect the highest possible level of service. No budget revision action shall be taken in excess of the actual or projected deficit."

SENATE REPORT

The Senate concurs with the House with the following change:

"There is established a Road Fund Budget Reduction Plan for fiscal year 2004-2005 and fiscal year 2005-2006. Notwithstanding KRS 48.130, in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of \$1,142,714,600 in fiscal year 2004-2005 and \$1,155,969,200 in fiscal year 2005-2005-2006 as determined by KRS 48.120(3), the overnor shall implement sufficient reductions as may be required to protect the highest possible level of service. No budget revision action shall be taken in excess of the actual or projected deficit."

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BUDGET MODIFICATION REPORT**

Part IX – Road Fund Surplus Expenditure Plan

BILL AS INTRODUCED

The State/Executive Branch Budget Bill, Part IX, Road Fund Surplus Expenditure Plan, includes the following directives relating to the actions to be taken in the event of surplus Road Fund receipts:

"Notwithstanding KRS 48.140 and pursuant to KRS 48.710, there is established a plan of expenditures from the Road Fund Surplus Account. All moneys in the Road Fund Surplus Account shall be deposited in the State Construction Account and utilized to support projects in the fiscal biennium 2004-2006 Biennial Highway Construction Program."

HOUSE REPORT

The House concurs with the Bill as Introduced.

SENATE REPORT

The Senate concurs with the House.

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**Fiscal Biennium 2004-2006
BUDGET MODIFICATION REPORT**

Part X – Phase I Tobacco Settlement

BILL AS INTRODUCED

The State/Executive Branch Budget Bill, Part X, Phase I Tobacco Settlement, includes the following directives:

General Purpose: This Part of the Act prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as described in KRS 248.701 to 248.727. In furtherance of that agreement, the General Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and 46 Settling States which provides reimbursement to states for smoking-related expenditures made over time.

State's MSA Share: The Commonwealth's share of the MSA is equal to 1.7611586 percent of the total settlement amount. Payments under the MSA are made to the states annually in April of each year.

MSA Payment Amount Variables: The total settlement amount to be distributed each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, previously settled states adjustments, and the nonparticipating manufacturers adjustment.

Distinct Identity of MSA Payment Deposits: The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement payments shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement payments that shall not lapse to the credit of the General Fund surplus, but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended.

MSA Payment Estimates and Adjustments: Based on the current estimates as reviewed by the Consensus Revenue Forecasting Group, the amount of MSA payments expected to be received in fiscal year 2004-2005 is \$108,800,000 and in fiscal year 2005-2006 is \$108,600,000. It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. Any appropriations made from the estimated receipts are subject to adjustments based on actual receipts as received and certified by the Secretary of the Finance and Administration Cabinet.

State Enforcement: Notwithstanding KRS 248.654, a total of \$175,000 of the MSA payments received each fiscal year of the 2004-2006 biennium is appropriated to the Finance and Administration Cabinet, Department of Revenue for the state's enforcement of

**Fiscal Biennium 2004-2006
BUDGET MODIFICATION REPORT**

Part X – Phase I Tobacco Settlement

noncompliant nonparticipating manufacturers.

Agricultural Development Initiatives: Fifty percent of the MSA payments, less the above enforcement appropriations, received in fiscal year 2004-2005, estimated to be \$54,312,500, and in fiscal year 2005-2006, estimated to be \$54,212,500, is appropriated to the Kentucky Agricultural Development Fund to be used for agricultural development initiatives.

Early Childhood Development Initiatives: Twenty-five percent of the MSA payments, less the above enforcement appropriations, received in fiscal year 2004-2005, estimated to be \$27,156,200, and in fiscal year 2005-2006, estimated to be \$27,106,200, is appropriated for Early Childhood Development Initiatives as specified below.

Health Care Initiatives: Twenty-five percent of the MSA payments received, less the above enforcement appropriations, in fiscal year 2004-2005, estimated to be \$27,156,300, and in fiscal year 2005-2006, estimated to be \$27,106,300, is appropriated to the Kentucky Health Care Improvement Fund for health care initiatives as specified below.

B. AGRICULTURAL DEVELOPMENT APPROPRIATIONS

County Extension Agents: Notwithstanding KRS 248.703(2)(b)2, included in the above General Fund (Tobacco) appropriation is \$1,000,000 in fiscal year 2005-2006 for the University of Kentucky Cooperative Extension Service to support the cost of providing a bonus for county extension agents in addition to any salary adjustments which may be made.

Tobacco Settlement Funds - Allocations: Notwithstanding KRS 248.711(2), and from the allocation provided therein, counties that are allocated in excess of \$20,000 annually may provide up to four percent of the individual county allocation, not to exceed \$15, 000 annually, to the county council in that county for administrative costs.

Environmental Stewardship Program: Included in the above General Fund (Tobacco) appropriation is \$9,000,000 in each fiscal year for the Environmental Stewardship Program.

Debt Service: To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be made available from those accounts to the appropriate account of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a

**Fiscal Biennium 2004-2006
BUDGET MODIFICATION REPORT**

Part X – Phase I Tobacco Settlement

sufficient amount available to be transferred from tobacco supported funding program accounts to other accounts of the General Fund.

C. EARLY CHILDHOOD DEVELOPMENT

Early Childhood Development Program and Child Advocacy Centers: Included in the above General Fund (Tobacco) appropriation is \$8,120,400 in each fiscal year for the Early Childhood Development Program, and \$180,000 in each fiscal year for Child Advocacy Centers.

HANDS Program, Healthy Start, Universal Children's Immunizations, Folic Acid Program, Early Childhood Mental Health, and Early Childhood Oral Health: Included in the above General Fund (Tobacco) appropriation is \$6,939,900 in fiscal year 2004-2005 and \$7,599,900 in fiscal year 2005-2006 for the Health Access Nurturing Development Services (HANDS) Program; \$2,000,000 in each fiscal year for Healthy Start initiatives; \$2,000,000 in each fiscal year for Universal Children's Immunizations; \$900,000 in each fiscal year for the Folic Acid Program; \$875,000 in each fiscal year for Early Childhood Mental Health; \$337,500 in fiscal year 2004-2005 and \$287,500 in fiscal year 2005-2006 for Early Childhood Oral Health; and \$1,000,000 in each fiscal year for the Kentucky Early Intervention Services First Steps Program. Also included in the above is \$660,000 in fiscal year 2004-2005 for the purchase of two Tandem Mass Spectrometers to increase newborn screenings for metabolic conditions.

Substance Abuse Prevention and Treatment: Included in the above General Fund (Tobacco) appropriation is \$900,000 in each fiscal year for substance abuse prevention and treatment.

Universal Newborn Hearing Screening and Vision Screening: Included in the above General Fund (Tobacco) appropriation is \$450,000 in each fiscal year for Universal Newborn Hearing Screening and \$5,000 in each fiscal year for Vision Screening.

Early Childhood Scholarships: Included in the above General Fund (Tobacco) appropriation is \$900,000 in fiscal year 2004-2005 and \$900,000 in fiscal year 2005-2006 for Early Childhood Scholarships.

D. HEALTH CARE IMPROVEMENT APPROPRIATIONS

**Fiscal Biennium 2004-2006
BUDGET MODIFICATION REPORT**

Part X – Phase I Tobacco Settlement

Kentucky Access Program: Included in the above General Fund (Tobacco) appropriation is \$16,782,600 in fiscal year 2004-2005 and \$16,751,700 in fiscal year 2005-2006 for the Kentucky Access Program.

Smoking Cessation Program: Included in the above General Fund (Tobacco) appropriation is \$2,715,600 in fiscal year 2004-2005 and \$2,710,600 in fiscal year 2005-2006 for the Smoking Cessation Program.

Ovarian Cancer Screening: Notwithstanding KRS 164.476, General Fund (Tobacco) dollars in the amount of \$775,000 each fiscal year shall be allotted from the Lung Cancer Research Fund to the Ovarian Cancer Screening Outreach Program at the University of Kentucky.

HOUSE REPORT

The House concurs with the Bill as introduced with the following changes:

The language relating to County Extension Agents in the Agricultural Development Appropriations is deleted.

The following language was added:

\$3,818,000 was added to the Kentucky Infrastructure Authority under General Government, Agricultural Development Appropriations in FY 06.

\$9.2 million was added to Debt Service in the Finance and Administration Cabinet under Agriculture Development Appropriations in FY 06.

Language was added to Debt Service in the Finance and Administration Cabinet, Agriculture Development Appropriations which states:

(2) Phase II Tobacco Settlement Payments: Included in the above appropriation, and subject to passage of enabling legislation (HB 132), is \$9,200,000 in fiscal year 2005-2006 for debt service.

**Fiscal Biennium 2004-2006
BUDGET MODIFICATION REPORT**

Part X – Phase I Tobacco Settlement

SENATE REPORT

The Senate concurs with the House (HB 267 GA) with the following changes:

\$1,540,000 was added to the Kentucky Infrastructure Authority under General Government, Agricultural Development Appropriations in FY 06. This appropriation increase will be sufficient to provide for Tobacco Water and Sewer Projects of \$115M.

An appropriation reduction of \$1,540,000 was implemented for fiscal year 2005-2006 in the Environmental Stewardship Program.

Language was added in the Finance and Administration Cabinet under Agricultural Development Appropriations which states:

(3) Assignment of Rights: If the North Carolina litigation proceeds through the appellate judicial process and results in a distribution of Phase II moneys from tobacco manufacturers to eligible tobacco growers and quota owners, or Congressional action occurs that compensates eligible tobacco growers and quota owners, then any eligible beneficiary who has already received moneys from the Commonwealth under this Act shall have assigned his or her rights to moneys under the National Tobacco Growers Settlement Trust (Phase II) or subsequent Congressional action to the Commonwealth. The assignment of rights to moneys shall not exceed the amount received under Part II, Capital Projects Budget, of this Act.

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SENATE BUDGET REPORT - 2005 REGULAR SESSION OF THE GENERAL ASSEMBLY

Summary of Tobacco Settlement Appropriations

	Fiscal Year 2003-2004			Fiscal Year 2004-2005			Fiscal Year 2005-2006		
	House Budget	Senate Budget	Difference	House Budget	Senate Budget	Difference	House Budget	Senate Budget	Difference
A - Government Operations									
Governor's Office of Agricultural Policy									
<u>Tobacco Settlement</u>									
Regular Appropriations				39,195,900	39,195,900		26,081,300	26,081,300	
Reserve Spending				27,309,700	27,309,700		5,252,400	5,252,400	
TOTAL				66,505,600	66,505,600		31,333,700	31,333,700	
Kentucky Infrastructure Authority									
<u>Tobacco Settlement</u>									
Regular Appropriations							3,818,000	5,358,000	1,540,000
Reserve Spending									
TOTAL							3,818,000	5,358,000	1,540,000
D - Department of Education									
<u>Learning and Results Services</u>									
<u>Tobacco Settlement</u>									
Regular Appropriations				1,888,400	1,888,400		1,888,400	1,888,400	
Reserve Spending				766,000	766,000				
TOTAL				2,654,400	2,654,400		1,888,400	1,888,400	
F - Environmental and Public Protection Cabinet									
<u>Natural Resources</u>									
<u>Tobacco Settlement</u>									
Regular Appropriations				9,000,000	9,000,000		9,000,000	7,460,000	(1,540,000)
Reserve Spending				4,648,600	4,648,600				
TOTAL				13,648,600	13,648,600		9,000,000	7,460,000	(1,540,000)
<u>Insurance</u>									
<u>Tobacco Settlement</u>									
Regular Appropriations				16,782,600	16,782,600		16,751,700	16,751,700	
Reserve Spending									
TOTAL				16,782,600	16,782,600		16,751,700	16,751,700	

Summary of Tobacco Settlement Appropriations

	Fiscal Year 2003-2004			Fiscal Year 2004-2005			Fiscal Year 2005-2006		
	House Budget	Senate Budget	Difference	House Budget	Senate Budget	Difference	House Budget	Senate Budget	Difference
G - Finance and Administration Cabinet									
Debt Service									
<u>Tobacco Settlement</u>									
Regular Appropriations				6,116,600	6,116,600		15,313,200	15,313,200	
Reserve Spending									
TOTAL				6,116,600	6,116,600		15,313,200	15,313,200	
Revenue									
Tobacco Settlement									
Regular Appropriations				175,000	175,000		175,000	175,000	
Reserve Spending									
TOTAL				175,000	175,000		175,000	175,000	
H - Health and Family Services Cabinet									
Commission for Children with Special Health Care Needs									
Tobacco Settlement									
Regular Appropriations				455,000	455,000		455,000	455,000	
Reserve Spending				43,900	43,900				
TOTAL				498,900	498,900		455,000	455,000	
Mental Health and Mental Retardation Services									
<u>Tobacco Settlement</u>									
Regular Appropriations				900,000	900,000		900,000	900,000	
Reserve Spending									
TOTAL				900,000	900,000		900,000	900,000	
Public Health									
<u>Tobacco Settlement</u>									
Regular Appropriations				17,428,000	17,428,000		17,373,000	17,373,000	
Reserve Spending				4,623,800	4,623,800				
TOTAL				22,051,800	22,051,800		17,373,000	17,373,000	
Community Based Services									
<u>Tobacco Settlement</u>									
Regular Appropriations				8,300,400	8,300,400		8,300,400	8,300,400	
Reserve Spending				153,800	153,800				
TOTAL				8,454,200	8,454,200		8,300,400	8,300,400	

Summary of Tobacco Settlement Appropriations

	Fiscal Year 2003-2004			Fiscal Year 2004-2005			Fiscal Year 2005-2006		
	House Budget	Senate Budget	Difference	House Budget	Senate Budget	Difference	House Budget	Senate Budget	Difference
I - Justice and Public Safety Cabinet									
Justice Administration									
<u>Tobacco Settlement</u>									
Regular Appropriations				2,226,800	2,226,800		2,222,700	2,222,700	
Reserve Spending				85,700	85,700				
TOTAL				2,312,500	2,312,500		2,222,700	2,222,700	
K - Postsecondary Education									
Council on Postsecondary Education									
<u>Tobacco Settlement</u>									
Regular Appropriations				5,431,300	5,431,300		5,421,300	5,421,300	
Reserve Spending									
TOTAL				5,431,300	5,431,300		5,421,300	5,421,300	
Kentucky Higher Education Assistance Authority									
<u>Tobacco Settlement</u>									
Regular Appropriations				900,000	900,000		900,000	900,000	
Reserve Spending				63,600	63,600				
TOTAL				963,600	963,600		900,000	900,000	

Statewide Totals**Tobacco Settlement**

Regular Appropriations	108,800,000	108,800,000		108,600,000	108,600,000	
Reserve Spending	37,695,100	37,695,100		5,252,400	5,252,400	
TOTAL	146,495,100	146,495,100		113,852,400	113,852,400	

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**Fiscal Biennium 2004-2006
BUDGET MODIFICATION REPORT**

Part XII – Legislative Branch

BILL AS INTRODUCED

The State/Executive Branch Budget Bill, Part XII, Legislative Branch provides General Fund support totaling \$108,100 in fiscal year 2005-2006 for health insurance and includes the following language provision:

"Health Insurance Funding: Included in the above General Fund appropriation is \$108,100 in fiscal year 2005-2006 for health insurance, which is in addition to the amounts appropriated for this purpose in 2004 Ky. Acts ch. 82 and 2004 (Extra. Sess.) Ky. Acts ch. 1, sec 17."

HOUSE REPORT

The House concurs with the Bill as Introduced with the following change:

The House adds the following language provision:

"Death Penalty Cost Study: The Legislative Research Commission shall conduct a comprehensive study to determine how much it has cost Kentucky to administer the death penalty since enactment of the sentence of death in 1976, including but not limited to the prosecutorial, legal defense, judicial, and correctional costs for all cases for which the death penalty was or could have been imposed, and transmit the results of the cost study to the Interim Joint Committee on Appropriations and Revenue no later than September 1, 2005."

SENATE REPORT

The Senate concurs with the House Report with the following change:

The Senate removes the language provision relating to a Death Penalty Cost Study.

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**Fiscal Biennium 2004-2006
BUDGET MODIFICATION REPORT**

Part XIII – Judicial Branch

BILL AS INTRODUCED

The State/Executive Branch Budget Bill, Part XIII, Judicial Branch, provides General Fund support totaling \$1,077,400 in fiscal year 2005-2006 for health insurance and includes the following language provision:

"Health Insurance Funding: Included in the above General Fund appropriation is \$1,077,400 in fiscal year 2005-2006 for health insurance, which is in addition to the amounts appropriated for this purpose in the 2004 Ky. Acts ch. 197 and 2004 (Extra. Sess.) Ky. Acts ch. 1, sec 16."

HOUSE REPORT

The House concurs with the Bill as Introduced.

SENATE REPORT

The Senate concurs with the House Report with the following changes:

The Senate adds language in Part XIII, Judicial Branch, Court Operations and Administration, that amends KRS 31A.010 to require Master Commissioner's to account for all receipts and expenditures of fees collected to the Administrative Office of the Courts and submit all monies that are in excess of authorized compensation and expenses to the Administrative Office of the Courts to be deposited into a non-lapsing trust and agency fund account that is to be utilized by the Administrative Office of the Courts to hire additional deputy clerks or office personnel, increase deputy clerk or office personnel salaries, or a combination thereof as follows:

"Reporting and Accounting of Receipts and Fees Collected: Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 31A.010 is amended to read as follows:

- (1) A master commissioner may be appointed for each county within a judicial circuit.
 - (a) In single-judge circuits the appointment shall be made by the Circuit Judge.
 - (b) In judicial circuits with more than one (1) judge the master commissioner shall be chosen by a majority of the judges and in the event of a tie the Chief Circuit Judge shall choose from those receiving the tie vote.

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Part XIII – Judicial Branch

- (2) The master commissioner shall be governed by such rules not inconsistent with the statutes of the Commonwealth as may be set by the Supreme Court~~[and by the court employing him]~~.
- (3) The master commissioner shall serve at the pleasure of the court as follows:
- (a) In a single-judge circuit the master commissioner shall serve at the pleasure of the Circuit Judge, but in no case shall his term exceed four (4) years without reappointment. The term of the commissioner shall automatically terminate following the death, resignation, or permanent replacement of the Circuit Judge who appointed him.
 - (b) In a judicial circuit with more than one (1) judge the master commissioner shall serve at the pleasure of the judges of the circuit, but in no case shall his term exceed four (4) years without reappointment. The master commissioner may be removed at any time by a majority vote of the judges of the circuit and in the event of a tie the decision shall be made by the Chief Circuit Judge.
- (4) *Each commissioner shall annually provide to the Administrative Office of the Courts a complete accounting for all amounts received and distributed and for all fees collected.* The master commissioner shall be compensated by fees as provided by rule of the Supreme Court. *Fees collected in excess of the authorized compensation and expenses of the master commissioner shall be remitted with the report to the Administrative Office of the Courts to inure to a trust and agency account which shall not lapse and which shall be used to hire additional deputy clerks or office personnel, to increase deputy clerk or office personnel salaries, or a combination thereof.* The Circuit Court may allow the commissioner a reasonable fee for performing judicial type functions in actions where the master commissioner does not execute a judicial sale.
- (5) The master commissioner shall maintain his office at such locations and during such hours as *authorized by rule of the Supreme Court*~~[the Chief Circuit Judge shall direct]~~.
- (6) The master commissioner shall perform such functions, including those of a receiver, as may be directed by an appropriate order of court.
- (7) The master commissioner may have such deputies and assistants, *as authorized by rule of the Supreme Court*~~[approved by order of the Chief Circuit Judge]~~, as are necessary to perform the functions of his office.

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BUDGET MODIFICATION REPORT**

Part XIII – Judicial Branch

(8) The Supreme Court may make such rules, regulations, and accounting procedures as it may deem necessary for the appointment, conduct, and other matters relating to the master commissioner or receiver."

The Senate adds a Part XIII, Judicial Branch, Local Facilities Fund, Capital Projects Budget, that authorizes construction of 15 new courthouse projects as presented below:

Authorized Local Facilities Projects and Deferred Use Allowance

Rank	County Project	Project Scope	Maximum Annualized Use Allowance	Total Funds
001.	Adair	10,468,000	937,000	1,636,600
002.	Taylor	14,806,000	1,325,000	2,300,900
003.	Laurel	23,709,000	2,122,000	3,805,000
004.	Shelby	18,441,000	1,651,000	2,839,100
005.	Pulaski	22,421,000	2,007,000	3,590,400
006.	Green	9,819,000	879,000	1,553,000
007.	Pool Projects			-
	Robertson	2,229,000	199,000	405,000
	Gallatin	2,229,000	199,000	505,000
	Pendleton	2,228,000	199,000	489,500
008.	Washington	11,381,000	1,019,000	1,789,000
009.	Livingston	7,583,000	679,000	1,284,000
010.	Grant	14,523,000	1,300,000	2,185,000
011.	Jackson	11,034,000	987,000	1,708,200
012.	Grayson	11,507,000	1,030,000	1,792,000
013.	Logan	14,861,000	1,330,000	2,170,600
014.	Hart	11,315,000	1,013,000	1,752,600
015.	Trigg	10,224,000	914,000	1,573,100
	Total	198,778,000	17,790,000	31,379,000

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BUDGET MODIFICATION REPORT**

Part XIII – Judicial Branch

The Senate provides Part XIII, Judicial Branch, Local Facilities Fund, Capital Projects Budget, language that defers funding for operating, use allowance payments, and non-recurring furniture and equipment for authorized courthouse projects to the 2006-2008 biennium pending action of the 2006 General Assembly, as follows:

"Deferred Funding: General Fund support to provide operating support totaling \$3,767,000, annualized use allowance payments totaling \$17,790,000, and non-recurring furniture and equipment costs totaling \$11,035,000, less off-setting payments made for existing facilities totaling \$1,213,000, for the above local facilities projects is deferred to the 2006-2008 fiscal biennium pending action of the 2006 General Assembly."

The Senate provides Part XIII, Judicial Branch, Local Facilities Fund, Capital Projects Budget, rules of administrative procedure language as follows:

"Rules of Administrative Procedure: All court facilities projects shall comply with the Rules of Administrative Procedure of the Court of Justice, Part X, Real Property Management Guide and KRS 26A.090 to 26A.168."

**Fiscal Biennium 2004-2006
BUDGET MODIFICATION REPORT**

Part XIV – Motor Vehicle Usage Tax

BILL AS INTRODUCED

The State/Executive Branch Budget Bill, Part XIV, provides the following language provision:

"ROAD FUND REVENUE INITIATIVE

Notwithstanding KRS 48.310, the following statutes are amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 138.460 is amended to read as follows:

- (1) A tax levied upon its retail price at the rate of six percent (6%) shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section.
- (2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered:
 - (a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state;
 - (b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.
- (3) The tax collected by the county clerk under this section shall be reported and remitted to the Revenue Cabinet on forms provided by the cabinet and on those forms as the cabinet may prescribe. The cabinet shall provide each county clerk affidavit forms which the clerk shall provide to the public free of charge to carry out the provisions of KRS 138.450. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.
- (4) A county clerk or other officer shall not register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section or as provided in Section 3 of this Part in addition to the transfer, registration, and license fees.

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Part XIV – Motor Vehicle Usage Tax

- (5) When a person offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, the person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. A credit shall not be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.
- (6) A county clerk or other officer shall not register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk a notarized affidavit, if required, and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle. If a notarized affidavit is not available, the clerk shall follow the procedures under KRS 138.450(12)(a) for new vehicles, and KRS 138.450(12)(c) or (d) for used cars. The clerk shall attach the notarized affidavit, if available, or other documentation attesting to the retail price of the vehicle as the Revenue Cabinet may prescribe by administrative regulation promulgated under KRS Chapter 13A to the copy of the certificate of registration and ownership mailed to the cabinet.
- (7) Notwithstanding the provisions of KRS 138.450, the tax shall not be less than six dollars (\$6) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where the vehicle is exempt from tax under KRS 138.470.
- (8) Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the Revenue Cabinet as a result of the registration of the returned vehicle. In the case of a new motor vehicle, the registration of the returned vehicle shall be canceled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.
- (9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the first registration. A person shall not be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

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Part XIV – Motor Vehicle Usage Tax

(10) Notwithstanding the time limitations of subsections (8) and (9) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the registration. A person shall not be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the dealer or manufacturer identifying the vehicle that was replaced.

Section 2. KRS 138.462 is amended to read as follows:

As used in KRS 138.463 and 138.4631, unless the context requires otherwise:

- (1) "Cabinet" means the Transportation Cabinet;
- (2) "Rent" and "rental" means a contract, supported by a consideration, for the use of a motor vehicle for a period of less than three hundred sixty-five (365) days;
- (3) "Lease" and "leasing" means a contract, supported by a consideration, for the use of a motor vehicle for a period of three hundred sixty-five (365) days or more;~~and~~
- (4) "Gross rental charge" means the amount due from~~paid by~~ a customer for time and mileage only;
- (5) "Residual value" means the projected value of the vehicle at the conclusion of the lease as stated in the lease; and
- (6) "Term of the lease" means the period of months that the lessee must make lease payments on a leased motor vehicle by contract.

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BUDGET MODIFICATION REPORT**

Part XIV – Motor Vehicle Usage Tax

Section 3. KRS 138.463 is amended to read as follows:

- (1) A holder of a permit as required under KRS 281.615 to operate as a U-Drive-It as defined in KRS 281.014 may pay the usage tax as provided in KRS 138.460 or, subject to the provisions of this section, may pay:
 - (a) If the vehicle is being leased, a usage tax of six percent (6%) levied:
 1. If the vehicle is new, upon the net difference between the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, including transportation charges, and the residual value of the vehicle; and
 2. If the vehicle is used, upon the net difference between the average retail value given in the automotive reference manual prescribed by the Transportation Cabinet and the residual value of the vehicle; or
 - (b) If the vehicle is being rented, a usage tax of six percent (6%) levied upon the amount of the gross rental~~or lease~~ charges due from~~paid by~~ a customer~~or lessee~~ renting~~or leasing~~ a motor vehicle from the~~such~~ holder of the permit.
- (2) If the lessor elects to remit a tax to the county clerk under subsection (1)(a) of this section, the lessor shall provide to the county clerk a copy of the signed lease agreement and any other information necessary for the clerk to input into the AVIS system:
 - (a) The full manufacturer's suggested retail price or average retail value of the vehicle as described in subsection (1)(a) of this section;
 - (b) The residual value of the vehicle;
 - (c) The U-Drive-It permit number as required by KRS 281.615; and
 - (d) The term of the lease.
- (3) The tax collected by the county clerk under this section shall be reported and remitted to the Transportation Cabinet in the manner prescribed by the cabinet and on those forms as the cabinet may prescribe. The county clerk shall, for collecting the tax, be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

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BUDGET MODIFICATION REPORT**

Part XIV – Motor Vehicle Usage Tax

(4) Any lease contract in effect on the effective date of this Part that is extended or renewed or whose terms are modified after the effective date of this Part shall be subject to tax as prescribed in subsection (1)(a) of this section.

(5) Lease contracts in effect as of the effective date of this Part shall continue in force until the expiration date of the lease or forty-eight (48) months after the effective date of this Part, whichever occurs first. At the end of the forty-eight (48) month period, any vehicle still under a lease shall be subject to payment of tax as prescribed in subsection (1)(a) of this section.~~[The provisions of KRS 138.462 and this section shall apply to all rental and leasehold contracts entered into after March 9, 1990].~~

~~(6)(3)~~ A holder of a permit shall pay the usage tax as provided in KRS 138.460 unless the holder~~[he]~~ shows to the satisfaction of the cabinet that the holder~~[he]~~ is regularly engaged in the renting or leasing of motor vehicles to retail customers as a part of an established business. The issuance of a U-Drive-It permit under the provisions of KRS Chapter 281 shall create a rebuttable presumption that the holder of a permit is regularly engaged in renting or leasing. Persons first engaging in the renting or leasing of motor vehicles to retail customers shall, in addition to obtaining a permit required under KRS 281.615, demonstrate to the satisfaction of the cabinet that they are prepared to qualify under the standards set forth in this subsection.

~~(7)(4)~~ ~~If [in the event]~~ the holder of the~~[such]~~ permit qualifies under subsection ~~(6)(3)~~ of this section and elects to pay the usage tax by the alternate method as provided in subsection (1) of this section, or is required by subsection ~~(11)(8)~~ of this section to pay by the alternate method, the holder~~[he]~~ shall pay the seat tax imposed by KRS 186.281(3) and in addition shall pay the ~~[monthly]~~ tax authorized by subsection (1) of this section.

~~(8)(5)~~ The tax authorized by subsection (1) of this section shall be the direct obligation of the holder of the permit but it may be charged to and collected from the customer in addition to the rental or lease charges. The tax due shall be remitted to the cabinet each month on forms and pursuant to regulations promulgated by the cabinet.

~~(9)(6)~~(a) As soon as practicable after each return is received, the cabinet shall examine and audit it. If the amount of tax computed by the cabinet is greater than the amount returned by the taxpayer, the excess shall be assessed by the cabinet within four (4) years from the date the return was filed, except as provided in ~~paragraphs~~~~[paragraph]~~ (c) and (d) of this subsection, and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice

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Part XIV – Motor Vehicle Usage Tax

of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the cabinet.

- (b) For the purpose of paragraphs (a), ~~and~~ (c), and (d) of this subsection, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.
- (c) Notwithstanding the four (4) year time limitation of paragraph (a) of this subsection, in the case of a return where the tax computed by the cabinet is greater by twenty-five percent (25%) or more than the amount returned by the taxpayer, the excess shall be assessed by the cabinet within six (6) years from the date the return was filed.
- (d) A leased vehicle appearing on a U-Drive-It tax return may be audited going back to the effective date of the lease contract, regardless of the time limitations established in paragraphs (a) and (c) of this subsection, except that, in the case of a failure to file a return or of a fraudulent return, the excess may be assessed at any time.

~~(10)(7)~~ Failure of the holder of the permit to remit the taxes applicable to the rental charges as provided herein shall be sufficient cause for the Department of Vehicle Regulation to void the permit issued to the ~~such~~ holder and the usage tax on each of the motor vehicles which had been registered by the holder under the permit shall be due and payable on the retail price of each ~~such~~ motor vehicle when it was first purchased by the holder.

~~(11)(8)~~ Notwithstanding the provisions of KRS 138.460 and subsection (1) of this section, a holder of a permit operating a fleet of rental passenger cars which has been registered pursuant to an allocation formula approved by the cabinet shall pay the tax by the method provided in this section. The provisions of this section shall apply to all vehicles rented by the holder in this state.

~~(12)(9)~~ The usage tax reported and paid on every rental ~~or lease~~ of a vehicle registered pursuant to this section shall be based on the fair market rental ~~or lease~~ value of the vehicle. Fair market rental ~~or lease~~ value shall be based on standards established by administrative regulation promulgated by the cabinet. The cabinet may remove a vehicle from the U-Drive-It program without a hearing if it is determined by the cabinet that no taxes have been remitted on that vehicle during the registration period. However, the tax reported and paid to the Transportation Cabinet shall not be less than the amount due based on the actual terms of a rental ~~or lease~~ agreement. The burden of proving that the consideration charged by the holder satisfies this subsection is on the holder.

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Part XIV – Motor Vehicle Usage Tax

Section 4. KRS 138.4631 is amended to read as follows:

- (1) If any holder of a permit under KRS 138.463(6)~~[(2)]~~ fails or refuses to file a return or furnish any information requested in writing, the cabinet may, from any information in its possession, make an estimate of the permit holder's gross rental or lease charges and issue an assessment against the permit holder based on the estimated gross rental~~[-or lease]~~ charges and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties provided by law.
- (2) If a dealer under KRS 138.4605 fails or refuses to file a return or furnish any information requested in writing, the cabinet may, from any information in its possession, make an estimate of the tax owed by the dealer on his loaner motor vehicles and issue an assessment against the dealer after adding a penalty of ten percent (10%) of the amount of the assessment so determined. The penalty shall be in addition to all other applicable penalties provided by law.
- (3) If any holder of a permit under KRS 138.463(6)~~[(2)]~~ or a dealer under KRS 138.4605 fails to make and file a return required by KRS 138.4605 or 138.463 on or before the due date of the return or the due date as extended by the cabinet, or if the tax, or any installment or portion of the tax imposed by KRS 138.4605 or 138.463 is not paid on or before the date prescribed for its payment, then, unless it is shown to the satisfaction of the cabinet that the failure is due to a reasonable cause, five percent (5%) of the tax found to be due shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent (25%) of the tax; provided, however, that in no case shall the penalty be less than ten dollars (\$10).
- (4) If the tax imposed by KRS 138.4605 or 138.463, whether assessed by the cabinet, the dealer, or the permit holder, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made.

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Part XIV – Motor Vehicle Usage Tax

Section 5. The provisions of this Part shall be effective August 1, 2005."

HOUSE REPORT

The House deletes the entire provision and creates a new Part XIV language provision as follows:

"MOTOR VEHICLE USAGE TAX

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 138.460 is amended to read as follows:

- (1) A tax levied upon its retail price at the rate of six percent (6%) shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section.
- (2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be titled or registered:
 - (a) When ~~he collects~~ the ~~registration~~ fee for titling or registering ~~and licensing~~ a motor vehicle the first time it is offered for titling or registration in this state is collected; or
 - (b) ~~Or~~ Upon the transfer of title or registration ~~ownership~~ of any motor vehicle previously titled or registered in this state.
- (3) The tax imposed by subsection (1) of this section and collected under subsection (2) of this section shall not be collected if:
 - (a) The owner provides to the county clerk a signed affidavit of non-highway use, on a form provided by the cabinet, attesting that the vehicle will not be used on the highways of the Commonwealth. If this type of affidavit is provided, the clerk shall, in accordance with the provisions of KRS Chapter 139, immediately collect the applicable sales and use tax due on the vehicle; or
 - (b) The owner provides to the county clerk a signed affidavit of temporary use, on a form provided by the cabinet, attesting that the vehicle will be held for less than one hundred eighty (180) days for the purpose of repair, transport, or resale, and

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Part XIV – Motor Vehicle Usage Tax

that it will be driven no more than one hundred (100) miles by the new title holder. If such vehicle is subsequently registered or driven more than one hundred (100) miles, the owner shall be responsible for payment of the motor vehicle usage tax that would have been due under subsection (1) of this section at the time the vehicle was originally titled.

- (4) (a) The tax collected by the county clerk under this section shall be reported and remitted to the Revenue Cabinet on forms provided by the cabinet and on those forms as the cabinet may prescribe. The cabinet shall provide each county clerk affidavit forms which the clerk shall provide to the public free of charge to carry out the provisions of KRS 138.450 and subsection (3) of this section. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.
- (b) The sales and use tax collected by the county clerk under paragraph (a) of subsection (3) of this section shall be reported and remitted to the cabinet on forms which the cabinet shall prescribe and provide at no cost. The county clerk shall, for his or her services in collecting the tax, be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

~~(5)(4)~~ A county clerk or other officer shall not title, register or issue any license tags to the owner of any motor vehicle subject to ~~the [this]~~ tax imposed by subsection (1) of this section or the tax imposed by KRS Chapter 139, when the vehicle is ~~then~~ being offered for titling or registration for the first time, or transfer the title ~~ownership~~ of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under subsection (1) of this section or the tax imposed by KRS Chapter 139, if applicable, in addition to any title~~the transfer~~, registration, ~~or~~and license fees.

- ~~(6)(5)~~ (a) When a person offers a motor vehicle:
1. For titling on or after the effective date of this Act; or
 2. For registration;
- for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, the person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. A credit shall not be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.
- (b) When a resident of this state offers a motor vehicle for registration for the first time in this state:

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1. Upon which the sales and use tax was paid by the resident offering the motor vehicle for registration at the time of titling under paragraph (a) of subsection (3) of this section; and
2. For which the resident provides proof that the tax was paid;
a non-refundable credit shall be given against the tax imposed by subsection (1) of this section for the sales and use tax paid.

~~(7)~~~~(6)~~ A county clerk or other officer shall not title, register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for titling or registration for the first time, unless the seller or his agent delivers to the county clerk a notarized affidavit, if required, and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle. If a notarized affidavit is not available, the clerk shall follow the procedures under KRS 138.450(12)(a) for new vehicles, and KRS 138.450(12)(c), ~~for~~ (d), or (e) for used vehicles~~cars~~. The clerk shall attach the notarized affidavit, if available, or other documentation attesting to the retail price of the vehicle as the Revenue Cabinet may prescribe by administrative regulation promulgated under KRS Chapter 13A to the copy of the certificate of registration and application for title ~~ownership~~ mailed to the cabinet.

~~(8)~~~~(7)~~ Notwithstanding the provisions of KRS 138.450, the tax shall not be less than six dollars (\$6) upon titling or first registration of ~~for any transfer of ownership of~~ a motor vehicle in this state, except where the vehicle is exempt from tax under KRS 138.470, or KRS 154.45-090.

~~(9)~~~~(8)~~ Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the Revenue Cabinet as a result of the registration of the returned vehicle. In the case of a new motor vehicle, the registration of the returned vehicle shall be canceled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

~~(10)~~~~(9)~~ When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the first titling or registration. A person shall not be entitled to a refund unless the

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~~person has~~~~he shall have~~ filed with the Revenue Cabinet a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

~~(11)~~~~(10)~~ Notwithstanding the time limitations of subsections ~~(9)~~~~(8)~~ and ~~(10)~~~~(9)~~ of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the titling or registration. A person shall not be entitled to a refund unless the person files~~he shall have filed~~ with the Revenue Cabinet a report from the dealer or manufacturer identifying the vehicle that was replaced."

SENATE REPORT

The Senate deletes the entire provision and creates a new Part XIV language provision as follows:

"MOTOR VEHICLE USAGE TAX

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 138.460 is amended to read as follows:

- (1) A tax levied upon its retail price at the rate of six percent (6%) shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section.
- (2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be titled or registered:
 - (a) When ~~he collects~~ the ~~registration~~ fee for titling or registering ~~and licensing~~ a motor vehicle the first time it is offered for titling or registration in this state is collected; or

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(b) ~~{Or}~~ Upon the transfer of title or registration ~~{ownership}~~ of any motor vehicle previously titled or registered in this state.

(3) The tax imposed by subsection (1) of this section and collected under subsection (2) of this section shall not be collected if the owner provides to the county clerk a signed affidavit of non-highway use, on a form provided by the cabinet, attesting that the vehicle will not be used on the highways of the Commonwealth. If this type of affidavit is provided, the clerk shall, in accordance with the provisions of KRS Chapter 139, immediately collect the applicable sales and use tax due on the vehicle.

(4) (a) The tax collected by the county clerk under this section shall be reported and remitted to the Revenue Cabinet on forms provided by the cabinet and on those forms as the cabinet may prescribe. The cabinet shall provide each county clerk affidavit forms which the clerk shall provide to the public free of charge to carry out the provisions of KRS 138.450 and subsection (3) of this section. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(b) The sales and use tax collected by the county clerk under subsection (3) of this section shall be reported and remitted to the cabinet on forms which the cabinet shall prescribe and provide at no cost. The county clerk shall, for his or her services in collecting the tax, be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(c) Motor vehicle dealers licensed pursuant to KRS Chapter 190 shall not owe or be responsible for the collection of sales and use tax due under subsection (3) of this section.

~~(5){(4)}~~ A county clerk or other officer shall not title, register or issue any license tags to the owner of any motor vehicle subject to ~~the{this}~~ tax imposed by subsection (1) of this section or the tax imposed by KRS Chapter 139, when the vehicle is ~~{then}~~ being offered for titling or registration for the first time, or transfer the title ~~{ownership}~~ of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under subsection (1) of this section or the tax imposed by KRS Chapter 139, if applicable, in addition to any title~~{the transfer}~~, registration, ~~or{and}~~ license fees.

~~(6){(5)}~~ (a) When a person offers a motor vehicle:

1. For titling on or after the effective date of this Act; or
2. For registration;

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for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, the person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. A credit shall not be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(b) When a resident of this state offers a motor vehicle for registration for the first time in this state:

1. Upon which the Kentucky sales and use tax was paid by the resident offering the motor vehicle for registration at the time of titling under subsection (3) of this section; and
2. For which the resident provides proof that the tax was paid;
a non-refundable credit shall be given against the tax imposed by subsection (1) of this section for the sales and use tax paid.

(7)~~(6)~~ A county clerk or other officer shall not title, register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for titling or registration for the first time, unless the seller or his agent delivers to the county clerk a notarized affidavit, if required, and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle. If a notarized affidavit is not available, the clerk shall follow the procedures under KRS 138.450(12)(a) for new vehicles, and KRS 138.450(12)(c), ~~or~~ (d), or (e) for used vehicles~~cars~~. The clerk shall attach the notarized affidavit, if available, or other documentation attesting to the retail price of the vehicle as the Revenue Cabinet may prescribe by administrative regulation promulgated under KRS Chapter 13A to the copy of the certificate of registration and application for title ~~ownership~~ mailed to the cabinet.

(8)~~(7)~~ Notwithstanding the provisions of KRS 138.450, the tax shall not be less than six dollars (\$6) upon titling or first registration of ~~for any transfer of ownership of~~ a motor vehicle in this state, except where the vehicle is exempt from tax under KRS 138.470, or KRS 154.45-090.

(9)~~(8)~~ Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the Revenue Cabinet as a result of the registration of the returned vehicle. In the case of a new

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motor vehicle, the registration of the returned vehicle shall be canceled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

~~(10)~~~~(9)~~ When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the first titling or registration. A person shall not be entitled to a refund unless the person has~~he shall have~~ filed with the Revenue Cabinet a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

~~(11)~~~~(10)~~ Notwithstanding the time limitations of subsections ~~(9)~~~~(8)~~ and ~~(10)~~~~(9)~~ of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the titling or registration. A person shall not be entitled to a refund unless the person files~~he shall have filed~~ with the Revenue Cabinet a report from the dealer or manufacturer identifying the vehicle that was replaced."

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Part XV – Driver’s License Fees

BILL AS INTRODUCED

The State/Executive Branch Budget Bill, Part XV, provides the following language provision:

"DRIVER’S LICENSE FEES

Notwithstanding KRS 48.310, the following statutes are amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 186.531 is amended to read as follows:

- (1) The cost of operators' licenses and permits shall be as follows:
 - (a) The fee for a four (4) year original or renewal motor vehicle license shall be twenty dollars (\$20)~~eight dollars (\$8)~~;
 - (b) The fee for a four (4) year original or renewal motorcycle operator's license shall be twenty-four dollars (\$24)~~twelve dollars (\$12)~~ and a combination motor vehicle-motorcycle operator's license shall be thirty dollars (\$30)~~eighteen dollars (\$18)~~;
 - (c) The fee for an instruction permit for a motor vehicle shall be twelve dollars (\$12) including~~two dollars (\$2) plus~~ four dollars (\$4) for preparing and acknowledging the application;
 - (d) The fee for an instruction permit for a motorcycle shall be twelve dollars (\$12) including~~five dollars (\$5) plus~~ one dollar (\$1) for preparing and acknowledging the application;
 - (e) The fee for a duplicate license shall be twelve dollars (\$12)~~six dollars (\$6)~~;
 - (f) The fee for an identification card shall be twelve dollars (\$12)~~four dollars (\$4)~~. The fee for a duplicate identification card shall be twelve dollars (\$12)~~two dollars (\$2); and~~
 - (g) Notwithstanding subsections (1)(h) and (2)(b) to (4) of this section, the additional fees for licenses and permits shall not be subject to the pro rata distribution formulas or dollar amounts enumerated in paragraphs (a) to (f) of this subsection. All additional funds collected by the fees in this section shall be deposited to the credit of the Road Fund; and
 - ~~(h)(g)~~ Any applicant under the age of twenty-one (21) who meets the requirements for the issuance of a valid driver's license shall be issued a license valid until the date the applicant attains the age of twenty-one (21). The fee for the license shall be

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Part XV – Driver’s License Fees

two dollars (\$2) per year for the requisite number of years as set forth herein. The applicant shall have thirty (30) days after his twenty-first birthday in which to renew his driver's license.

- (2) Except as provided in subsection (3) of this section, the circuit clerk shall deposit in the State Treasury to the credit of the general fund except as provided in paragraph (a), paragraph (f), and paragraph (g) of this subsection fees pertaining to applications and license fees in the following manner:
- (a) Twenty-two per cent (22%) of the cost for the issuance of any original and renewal license shall be deposited in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees and providing salary adjustments for employees;
 - (b) One dollar (\$1) for issuance of any instruction permit;
 - (c) One dollar (\$1) for preparing and acknowledging an application for an instruction permit;
 - (d) One dollar and twenty-five cents (\$1.25) for preparing and acknowledging an application for a duplicate;
 - (e) One dollar and twenty-five cents (\$1.25) for each identification card;
 - (f) For each original or renewal license one dollar (\$1) shall be credited to a special account within the state road fund and shall be used by the Transportation Cabinet exclusively for the purpose of issuing a photo license. For each original or renewal motorcycle operator's license and each motorcycle instruction permit, four dollars (\$4) shall be credited to a special account within the state road fund and shall be used exclusively for the purpose of the motorcycle safety education program fund pursuant to KRS 186.890;
 - (g) An applicant for an original or renewal motor vehicle operator's license, commercial driver's license, motorcycle operator's license, or nondriver's identification card shall be requested by the clerk to make a donation of one dollar (\$1) to promote an organ donor program. The one dollar (\$1) donation shall be added to the regular fee for an original or renewal motor vehicle operator's license, commercial driver's license, motorcycle operator's license, or nondriver's identification card. One (1) donation may be made per issuance or renewal of a license or any combination thereof. The fee shall be paid to the circuit clerk and shall be retained by the clerk to be used exclusively for the purpose of promoting an organ donor program. Organ donation shall be voluntary and may be refused by the applicant at the time of issuance or renewal of a license; and
 - (h) Three dollars (\$3) for a combination motor vehicle-motorcycle operator's license.

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(3) The following fees shall be deposited in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses:

- (a) One dollar (\$1) for issuing of an instruction permit;
- (b) Three dollars (\$3) for preparing and acknowledging an application for an instruction permit;
- (c) Four dollars (\$4) for preparing and acknowledging an application for a duplicate license;
- (d) Ten dollars (\$10) for preparing and acknowledging an application for a reinstatement fee; and
- (e) These fees shall be in addition to other funds provided to the circuit clerk through the regular appropriation made by the General Assembly to the Administrative Office of the Courts.

(4) The remainder of all fees, and other moneys collected by the circuit clerk shall be forwarded to the state."

HOUSE REPORT

The House deletes the entire provision and creates a new Part XIV language provision as follows:

"DRIVER’S LICENSE FEES

Notwithstanding KRS 48.310, the following statutes are amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 186.531 is amended to read as follows:

- (1) The cost of operators' licenses and permits shall be as follows:
 - (a) The fee for a four (4) year original or renewal motor vehicle license shall be twenty dollars (\$20)~~eight dollars (\$8)~~;
 - (b) The fee for a four (4) year original or renewal motorcycle operator's license shall be twenty-four dollars (\$24)~~twelve dollars (\$12)~~ and a combination motor vehicle-motorcycle operator's license shall be thirty dollars (\$30)~~eighteen dollars (\$18)~~;
 - (c) The fee for an instruction permit for a motor vehicle shall be twelve dollars (\$12) including~~two dollars (\$2) plus~~ four dollars (\$4) for preparing and acknowledging the application;

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- (d) The fee for an instruction permit for a motorcycle shall be twelve dollars (\$12) including~~five dollars (\$5) plus~~ one dollar (\$1) for preparing and acknowledging the application;
- (e) The fee for a duplicate license shall be twelve dollars (\$12)~~six dollars (\$6)~~;
- (f) The fee for an identification card shall be twelve dollars (\$12)~~four dollars (\$4)~~. The fee for a duplicate identification card shall be twelve dollars (\$12)~~two dollars (\$2); and~~
- (g) Notwithstanding subsections (1)(h) and (2)(b) to (4) of this section, the additional fees for licenses and permits shall not be subject to the pro rata distribution formulas or dollar amounts enumerated in paragraphs (a) to (f) of this subsection. All additional funds collected by the fees in this section shall be deposited to the credit of the Road Fund; and
- ~~(h)(g)~~ Any applicant under the age of twenty-one (21) who meets the requirements for the issuance of a valid driver's license shall be issued a license valid until the date the applicant attains the age of twenty-one (21). The fee for the license shall be two dollars (\$2) per year for the requisite number of years as set forth herein. The applicant shall have thirty (30) days after his twenty-first birthday in which to renew his driver's license.

(2) Except as provided in subsection (3) of this section, the circuit clerk shall deposit in the State Treasury to the credit of the general fund except as provided in paragraph (a), paragraph (f), and paragraph (g) of this subsection fees pertaining to applications and license fees in the following manner:

- (a) Twenty-two per cent (22%) of the cost for the issuance of any original and renewal license shall be deposited in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees and providing salary adjustments for employees;
- (b) One dollar (\$1) for issuance of any instruction permit;
- (c) One dollar (\$1) for preparing and acknowledging an application for an instruction permit;
- (d) One dollar and twenty-five cents (\$1.25) for preparing and acknowledging an application for a duplicate;
- (e) One dollar and twenty-five cents (\$1.25) for each identification card;
- (f) For each original or renewal license one dollar (\$1) shall be credited to a special account within the state road fund and shall be used by the Transportation Cabinet exclusively for the purpose of issuing a photo license. For each original or renewal motorcycle operator's license and each motorcycle instruction permit, four dollars (\$4) shall be credited to a special account within the state road fund and shall be used exclusively for the purpose of the motorcycle safety education program fund pursuant to KRS 186.890;

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- (g) An applicant for an original or renewal motor vehicle operator's license, commercial driver's license, motorcycle operator's license, or nondriver's identification card shall be requested by the clerk to make a donation of one dollar (\$1) to promote an organ donor program. The one dollar (\$1) donation shall be added to the regular fee for an original or renewal motor vehicle operator's license, commercial driver's license, motorcycle operator's license, or nondriver's identification card. One (1) donation may be made per issuance or renewal of a license or any combination thereof. The fee shall be paid to the circuit clerk and shall be retained by the clerk to be used exclusively for the purpose of promoting an organ donor program. Organ donation shall be voluntary and may be refused by the applicant at the time of issuance or renewal of a license; and
 - (h) Three dollars (\$3) for a combination motor vehicle-motorcycle operator's license.
- (3) The following fees shall be deposited in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses:
- (a) One dollar (\$1) for issuing of an instruction permit;
 - (b) Three dollars (\$3) for preparing and acknowledging an application for an instruction permit;
 - (c) Four dollars (\$4) for preparing and acknowledging an application for a duplicate license;
 - (d) Ten dollars (\$10) for preparing and acknowledging an application for a reinstatement fee; and
 - (e) These fees shall be in addition to other funds provided to the circuit clerk through the regular appropriation made by the General Assembly to the Administrative Office of the Courts.
- (4) The remainder of all fees, and other moneys collected by the circuit clerk shall be forwarded to the state."

SENATE REPORT

The Senate concurs with the House.

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Part XVI – Sales and Use Tax

BILL AS INTRODUCED

The Bill as Introduced contains no provisions relating to the Sales and Use Tax.

HOUSE REPORT

The House adds Part XVIII, Sales and Use Tax, as follows:

"Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 139.495 is amended to read as follows:

The taxes imposed by this chapter shall apply to resident, nonprofit educational, charitable, and religious institutions which have qualified for exemption from income taxation under Section 501(c)(3) of the Internal Revenue Code as follows:

- (1) Tax does not apply to sales of tangible personal property or services to such institutions provided the property or service is to be used solely within the educational, charitable, or religious function.
- (2) Tax does not apply to sales of food to students in school cafeterias or lunchrooms.
- (3) Tax does not apply to sales by school bookstores of textbooks, workbooks, and other course materials.
- (4) Tax does not apply to sales by nonprofit, school sponsored clubs and organizations, provided such sales do not include tickets for athletic events.

(5) *An institution shall be entitled to a refund equal to twenty-five percent (25%) of the tax collected on its sale of donated goods if the refund is used exclusively as reimbursement for capital construction costs of additional retail locations in this state, provided the institution:*

(a) Routinely sells donated items;

(b) Provides job training and employment to individuals with workplace disadvantages and disabilities;

(c) Spends at least seventy-five percent (75%) of its annual revenue on job training, job placement, or other related community services;

(d) Submits a refund application to the cabinet within sixty (60) days after the new retail location opens for business; and

(e) Provides records of capital construction costs for the new retail location and any other information the cabinet deems necessary to process the refund.

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The maximum refund allowed for any location shall not exceed one million dollars (\$1,000,000). As used in this subsection, "capital construction cost" means the cost of construction of any new facilities or the purchase and renovation of any existing facilities, but does not include the cost of real property other than real property designated as a brownfield site as defined in KRS 65.680(4).

(6) Notwithstanding any other provision of law to the contrary, refunds under subsection (5) of this section shall be made directly to the institution. Interest shall not be allowed or paid on the refund. The cabinet may examine any refund within four (4) years from the date the refund application is received. Any overpayment shall be subject to the interest provisions of KRS 131.183 and the penalty provisions of KRS 131.180.

(7) All other sales made by nonprofit educational, charitable, and religious institutions are taxable and the tax may be passed on to the customer as provided in KRS 139.210.

Section 2. This Part takes effect August 1, 2005."

SENATE REPORT

The Senate concurs with the House and adds the following lanugage.

Section 2. KRS 139.200 is amended to read as follows:

A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross receipts derived from:

- (1) Retail sales, regardless of the method of delivery, made within this Commonwealth; and
- (2) The furnishing of the following:
 - (a) The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings, or accommodations supplied for a continuous period of thirty (30) days or more to a person;
 - (b) Sewer services;

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Part XVI – Sales and Use Tax

- (c) The sale of admissions except those taxed under KRS 138.480;
- (d) Communications service to a service address in this state, other than mobile telecommunications services as defined in KRS 139.195, regardless of where those services are billed or paid, when the communications service:
 - 1. Originates and terminates in this state;
 - 2. Originates in this state; or
 - 3. Terminates in this state; ~~and~~
- (e) Mobile telecommunications services as defined in KRS 139.195, to a purchaser whose place of primary use is in this state; and
- (f) Distribution, transmission, or transportation services for natural gas that is for storage, use or other consumption in this state, excluding those services furnished:
 - 1. For natural gas that is classified as residential use as provided in KRS 139.470(8); or
 - 2. To a seller or reseller of natural gas.

Section 3. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

- (1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;
- (2) Coal for the manufacture of electricity;

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Part XVI – Sales and Use Tax

- (3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining and any related distribution, transmission, and transportation services for this energy that are billed to the user, to the extent that the cost of the energy or energy-producing fuels used, and related distribution, transmission, and transportation services for this energy that are billed to the user exceed ~~exceeds~~ three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;
- (4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;
- (5) Poultry for use in breeding or egg production;
- (6) Farm work stock for use in farming operations;
- (7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;
- (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;
- (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;
- (10) Machinery for new and expanded industry;

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Part XVI – Sales and Use Tax

(11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;

(13) Tombstones and other memorial grave markers;

(14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply but not be limited to vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(16) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:

- (a) Operate farm machinery as defined in subsection (11) of this section;

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- (b) Operate on-farm grain or soybean drying facilities as defined in subsection (14) of this section;
 - (c) Operate on-farm poultry or livestock facilities defined in subsection (15) of this section;
 - (d) Operate-on farm ratite facilities defined in subsection (24) of this section;
 - (e) Operate on-farm llama or alpaca facilities as defined in subsection (26) of this section; or
 - (f) Operate on-farm dairy facilities;
- (17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;
- (18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;
- (19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;
- (20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1994;

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- (22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;
- (23) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;
- (24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;
- (26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the

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seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

- (27) Baling twine and baling wire for the baling of hay and straw;
- (28) Water sold to a person regularly engaged in the business of farming and used in the:
- (a) Production of crops;
 - (b) Production of milk for sale; or
 - (c) Raising and feeding of:
 - 1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or
 - 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
- (29) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (30) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Water;

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- (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
 - (d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquefied petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (31) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
 - (c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities; and
- (32) (a) Repair or replacement parts for the direct operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire, provided the motor vehicle is licensed for use on the highway and its declared gross vehicle weight with any towed unit is forty-four thousand and one (44,001) pounds or greater. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter.
- (b) For the purposes of this subsection, "repair and replacement parts" means tires, brakes, engines, transmissions, drive trains, chassis, body parts, and their components. "Repair and replacement parts" shall not include fuel, machine oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential to the operation of the motor vehicle itself, except when sold as part of the assembled unit, such as cigarette lighters, radios, lighting fixtures not otherwise required by the manufacturer for operation of the vehicle, or tool or utility boxes.

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Section 4. KRS 139.505 is amended to read as follows:

- (1) For the purpose of this section, "gross receipts" means:
 - (a) Sales of tangible personal property in this state if:
 1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or
 2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government; and
 - (b) Sales other than sales of tangible personal property in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on cost of performance, or gross receipt allocation method as provided by statute and elected by the taxpayer.
- (2) Any business whose interstate communications service, subject to the sales tax imposed under KRS Chapter 139 and deducted for federal income tax purposes, exceeds five percent (5%) of the business's Kentucky gross receipts during the preceding calendar year is entitled to a refundable credit if:
 - (a) The business's annual Kentucky gross receipts are equal to or more than one million dollars (\$1,000,000); and
 - (b) The majority of the interstate communications service billed to a Kentucky service address for the annual period is for communications service originating outside of this state and terminating in this state.
- (3) The refundable credit shall be equal to the sales tax paid on the difference by which the interstate communications service purchased by the business exceeds five percent (5%) of the business's Kentucky gross receipts.
- ~~(4)~~~~(3)~~ Any business that qualifies for the refundable credit authorized by subsection (2) of this section shall make an annual application for the refund on or after June 1, 2002, and on or after every June 1 thereafter. The application shall be made to the cabinet on forms as the cabinet may prescribe and shall contain information regarding interstate communications service purchases and any other information deemed necessary for the cabinet to determine the business's eligibility to receive a refund.

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Part XVI – Sales and Use Tax

~~(5)~~~~(4)~~ Notwithstanding the provisions of KRS 134.580 to the contrary, the cabinet, upon receipt of a properly documented refund application, shall cause a timely refund to be made directly to the eligible business. Interest shall not be allowed or paid on any refund made under this section.

(6) To facilitate the administration of the refundable tax credit, the cabinet shall grant eligible businesses that apply for the tax credit permission to directly report and pay the sales tax applicable to the purchase of communications service. Once the business receives permission to directly report and pay the tax, refunds issued according to subsection (2) of this section shall not include any sales tax collected and paid by a communications service provider.

~~(7)~~~~(5)~~ Any refund application submitted under this section is subject to examination by the cabinet. The examination shall occur within four (4) years from the date the refund application is received by the cabinet. Any overpayment resulting from the examination shall be repaid to the State Treasury. In addition, the amount required to be repaid is subject to the interest provisions of KRS 131.183 and to the penalty provisions of KRS 131.180.

~~(8)~~~~(6)~~ If a business owns directly or indirectly fifty percent (50%) or more of another business, the credit computed under subsection (2) of this section shall be computed on a combined basis, excluding any intercompany Kentucky gross receipts.

Section 5. Section 1 of this Part, relating to sales tax refunds, takes effect August 1, 2005.

Section 6. Sections 2 and 3 of this Part, relating to sales tax on natural gas transmission services, take effect June 1, 2005.

Section 7. Section 4 of this Part, relating to sales tax on communications services, shall apply to applicants filing on or after June 1, 2003.

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Part XVII – Motor Fuels Tax

BILL AS INTRODUCED

The Bill as Introduced contained Part III language relating to the Motor Fuels Tax, but contained no special parts provision.

HOUSE REPORT

The House Report contained Part III language relating to the Motor Fuels Tax, but contained no special parts provision.

SENATE REPORT

The Senate delete the Part XVII language provision relating to the Kentucky Data Research Initiative.

The Senate adds Part XVII, Motor Fuels Tax, language provision as follows:

"MOTOR FUELS TAX

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to 138.446, unless the context requires otherwise:

- (1) "Accountable loss" means loss or destruction of "received" gasoline or special fuel through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or contaminated and returned to storage. The loss shall be reported within thirty (30) days after discovery of the loss to the cabinet in a manner and form prescribed by the cabinet, supported by proper evidence which in the sole judgment of the cabinet substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the cabinet. The cabinet may make any investigation deemed necessary to establish the bona fide claim of the loss;
- (2) "Gasoline dealer" or "special fuels dealer" means any person who is:
 - (a) Regularly engaged in the business of refining, producing, distilling, manufacturing, blending, or compounding gasoline or special fuels in this state;

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Part XVII – Motor Fuels Tax

- (b) Regularly importing gasoline or special fuel, upon which no tax has been paid, into this state for distribution in bulk to others;
 - (c) Distributing gasoline from bulk storage in this state;
 - (d) Regularly engaged in the business of distributing gasoline or special fuels from bulk storage facilities primarily to others in arm's-length transactions;
 - (e) In the case of gasoline, receiving or accepting delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the cabinet, the person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer; or
 - (f) Regularly exporting gasoline or special fuels;
- (3) "Cabinet" means the Revenue Cabinet;
- (4) (a) "Gasoline" means all liquid fuels, including liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments, and all other products so usable which are produced, blended, or compounded for the purpose of operating motor vehicles, showing a flash point of 110 degrees Fahrenheit or below, using the Elliott Closed Cup Test, or when tested in a manner approved by the United States Bureau of Mines, are prima facie commercially usable in internal combustion engines. The term "gasoline" as used herein shall include casing head, absorption, natural gasoline, and condensates when used without blending as a motor fuel, sold for use in motors direct, or sold to those who blend for their own use, but shall not include: propane, butane, or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel, crude oil or casing head, absorption, natural gasoline and condensates when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel, industrial naphthas, rubber solvents, Stoddard solvent, mineral spirits, VM and P & naphthas, turpentine substitutes, pentane, hexane, heptane, octane, benzene, benzine, xylol, toluol, aromatic petroleum solvents, alcohol, and liquefied gases which would not exist as liquids at a temperature of sixty (60) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute, unless the products are used wholly or in combination with gasoline as a motor fuel;

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Part XVII – Motor Fuels Tax

- (b) "Special fuels" means and includes all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, including diesel fuel, and dyed diesel fuel used exclusively for nonhighway purposes in off-highway equipment and in nonlicensed motor vehicles, except that it does not include gasoline, aviation jet fuel, kerosene unless used wholly or in combination with special fuel as a motor fuel, or liquefied petroleum gas as defined in KRS 234.100;
 - (c) "Diesel fuel" means any liquid other than gasoline that, without further processing or blending, is suitable for use as a fuel in a diesel powered highway vehicle. Diesel fuel does not include unblended kerosene, No. 5, and No. 6 fuel oil as described in ASTM specification D 396 or F-76 Fuel Naval Distillate MILL-F-166884;
 - (d) "Dyed diesel fuel" means diesel fuel that is required to be dyed under United States Environmental Protection Agency rules for high sulfur diesel fuel, or is dyed under the Internal Revenue Service rules for low sulfur fuel, or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or the Internal Revenue Service;
- (5) "Received" or "received gasoline" or "received special fuels" shall have the following meanings:
- (a) Gasoline and special fuels produced, manufactured, or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine, or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state, unless the contrary is established by the dealer, pursuant to rules and regulations prescribed by the cabinet; and
 - (b) Gasoline and special fuel acquired by any dealer in this state, and not delivered into refinery, marine, or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale, or other distribution. Dealers may sell gasoline or special fuel to licensed bonded dealers in this state in transport truckload, carload, or cargo lots, withdrawing it from refinery, marine, pipeline terminal, or bulk storage tanks, without paying the tax. In such instances, the licensed bonded dealer purchasing the gasoline or special fuel shall be deemed to have received such fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon;

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- (6) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded, or otherwise prepared for use;
- (7) "Storage" means all gasoline and special fuel produced, refined, distilled, manufactured, blended, or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage, or delivered by pipeline at a pipeline terminal, delivery station, or tank farm for storage;
- (8) "Transporter" means any person who transports gasoline or special fuel on which the tax has not been paid or assumed;
- (9) "Bulk storage facility" means gasoline or special fuel storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuel for resale or delivery to retail outlets or consumers;
- (10) "Average wholesale price" shall mean:
 - (a) The weighted average per gallon wholesale tank wagon price of gasoline, exclusive of the nine cents (\$0.09) per gallon federal tax in effect on January 1, 1984, any increase in the federal gasoline tax after July 1, 1984, and any fee on imported oil imposed by the Congress of the United States after July 1, 1986, as determined by the Revenue Cabinet from information furnished by licensed gasoline dealers or from information available through independent statistical surveys of gasoline prices. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, the information regarding wholesale selling prices for the previous month required by the cabinet;
 - (b) Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of the taxes levied in KRS 138.220, 138.660, and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar and twenty-two~~eleven~~ cents (\$1.22)~~(\$1.11)~~ per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents (\$1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83, the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal year 1981-82; in each subsequent fiscal year the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year;

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Part XVII – Motor Fuels Tax

(11) "Motor vehicle" means any vehicle, machine, or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by the motor vehicles;

(12) "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(13) "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm;

(14) "Retail filling station" means any place accessible to general public vehicular traffic where gasoline or special fuel is or may be placed into the fuel supply tank of a licensed motor vehicle; and

(15) "Financial instrument" means a bond issued by a corporation authorized to do business in Kentucky, a line of credit, or an account with a financial institution maintaining a compensating balance.

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Part XVII – Motor Fuels Tax

Section 2. KRS 138.220 is amended to read as follows:

(1) An excise tax at the rate of nine percent (9%) of the average wholesale price rounded to the third decimal when computed on a per gallon basis shall be paid on all gasoline and special fuel received in this state. For the purposes of the allocations in KRS 177.320(1) and (2) and 177.365, the amount calculated under this subsection shall be reduced by the amount calculated in subsection (3) of this section. Except as provided by KRS Chapter 138, no other excise or license tax shall be levied or assessed on gasoline or special fuel by the state or any political subdivision of the state. The tax herein imposed shall be paid by the dealer receiving the gasoline or special fuel to the State Treasurer in the manner and within the time specified in KRS 138.230 to 138.340 and all such tax may be added to the selling price charged by the dealer or other person paying the tax on gasoline or special fuel sold in this state. Nothing herein contained shall authorize or require the collection of the tax upon any gasoline or special fuel after it has been once taxed under the provisions of this section, unless such tax was refunded or credited.

(2) In addition to the excise tax provided in subsection (1) of this section, there is hereby levied a supplemental highway user motor fuel tax to be paid in the same manner and at the same time as the tax provided in subsection (1) of this section. Such tax shall be calculated, starting with the quarter beginning July 1, 1986, by taking the excise tax resulting from the calculation provided for in subsection (1) of this section and adjusting such tax calculated, for each quarter, to reflect decreases in the average wholesale price, as defined in KRS 138.210(10)(a). The adjustment shall be made by calculating the difference between the average wholesale price computed for the quarter beginning October 1, 1985, as provided for in subsection ~~(4)~~[(3)] of this section, and the average wholesale price computed for the quarter beginning July 1, 1986 and each succeeding quarter, as provided for in subsection ~~(4)~~[(3)] of this section. In the event of a decrease in the average wholesale price computed for the quarter beginning October 1, 1985, and ending December 31, 1985, and the average wholesale price computed for the quarter beginning July 1, 1986, and each succeeding quarter, the excise tax shall be adjusted upward for that quarter. The upward adjustment shall equal one-half (1/2) of the decrease between the two (2) quarterly periods, rounded to the third decimal. In no case shall the adjustment provided by this subsection result in a supplemental highway user motor fuel tax greater than five cents (\$0.05) on gasoline or two cents (\$0.02) on special fuel and, notwithstanding any adjustment which may be calculated as provided by this subsection, in no case shall the supplemental highway user motor fuel tax for any quarter be less than the previous quarter. The supplemental highway user motor fuel tax provided by this subsection and the provisions of ~~subsections~~~~subsection~~ (1) and (3) of this section shall constitute the tax on motor fuels imposed by KRS 138.220.

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Part XVII – Motor Fuels Tax

(3) Effective July 1, 2005, one cent (\$0.01) of the tax collected under subsection (1) of this section shall be excluded from the calculations in KRS 177.320(1) and (2) and 177.365. The funds identified in this subsection shall be deposited into the state road fund.

~~(4)~~[(3)] Effective with the calendar quarter beginning July 1, 1980, the cabinet shall determine on a consistent basis the average wholesale price for each calendar quarter, on the basis of sales data accumulated for the first month of the preceding quarter. Notification of the average wholesale price shall be given to all licensed dealers at least twenty (20) days in advance of the first day of each calendar quarter.

~~(5)~~[(4)] Dealers with a tax-paid gasoline or special fuel inventory at the time an average wholesale price becomes effective, shall be subject to additional tax or appropriate tax credit to reflect the increase or decrease in the average wholesale price for the new quarter. The cabinet shall promulgate such rules and regulations to properly administer this provision.

Section 3. KRS 177.320 is amended to read as follows:

(1) Twenty-two and two-tenths percent (22.2%) of all funds arising from the imposition of taxes provided by KRS 138.220(1) and (2), 138.660(1) and (2) and 234.320 shall be set aside for the construction, reconstruction and maintenance of secondary and rural roads and for no other purpose, and shall be expended for said purposes by the Transportation Cabinet of the Commonwealth of Kentucky according to the terms and conditions prescribed in KRS 177.330 to 177.360.

(2) On or after July 1, 1980, eighteen and three-tenths percent (18.3%) of all funds arising from the imposition of taxes provided by KRS 138.220(1) and (2), 138.660(1) and (2), and 234.320 shall be set aside for the construction, reconstruction and maintenance of county roads and bridges provided by KRS 179.410 and 179.415.

(3) All funds set aside in subsection (2) of this section for the construction, reconstruction and maintenance of county roads and bridges shall be allocated to the county in accordance with the formula established in KRS 177.360(1) pursuant to KRS 179.410.

(4) On or after July 1, 1986, one-tenth of one percent (0.1%) of all funds arising from the imposition of taxes provided by KRS 138.220(1) and (2), 138.660 and 234.320 shall be set aside for the purposes and functions of the Kentucky Transportation Center as

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Part XVII – Motor Fuels Tax

established by KRS 177.375 to 177.380, except that the receipts provided to the center by this subsection shall not exceed one hundred ninety thousand dollars (\$190,000) for any fiscal year.

Section 4. KRS 177.365 is amended to read as follows:

- (1) On and after July 1, 1980, seven and seven-tenths percent (7.7%) of all amounts received from the imposition of the taxes provided for in KRS 138.220(1) and (2), 138.660(1) and (2) and 234.320 shall be set aside by the Finance and Administration Cabinet for the construction, reconstruction and maintenance of urban roads and streets and for no other purpose.
- (2) As used in this section unless the context requires otherwise "construction," "reconstruction," and "maintenance" mean the supervising, inspecting, actual building, and all expenses incidental to the construction, reconstruction, or maintenance of a road or street, including planning, locating, surveying, and mapping or preparing roadway plans, acquisition of rights-of-way, relocation of utilities, lighting and the elimination of other hazards such as roadway grade crossings, and all other items defined in the Department of Highways, design, operations, and construction manuals.
- (3) "Urban roads" mean all public ways lying within the limits of the unincorporated urban place as defined in KRS 81.015, and as described by the Bureau of Census tracts.
- (4) "Streets" mean all public ways which have been designated by the incorporated city as being city streets and said streets lying within the boundaries of an incorporated city.

Section 5. Sections 2 through 4 of this Part shall become effective on July 1, 2005."

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Part XVIII – Individual IncomeTax

BILL AS INTRODUCED

The Bill as Introduced contains no provision relating to Individual Income Tax.

HOUSE REPORT

The House Report contains no provision relating to the Individual Income Tax. .

SENATE REPORT

The Senate added the following language.

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- 1) "Secretary" means the secretary of revenue;
- (2) "Cabinet" means the Revenue Cabinet;
- (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2001, that would otherwise terminate, and as modified by KRS 141.0101;
- (4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;
- (5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;
- (6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

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Part XVIII – Individual IncomeTax

- (7) "Individual" means a natural person;
- (8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;
- (9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;
- (10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:
- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;
 - (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
 - (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;
 - (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;
 - (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;
 - (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

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- (h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;
- (i)
 - 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
 - 2. The "applicable amount" shall be:
 - a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars (\$6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;
 - b. Fifty percent (50%), but not more than twelve thousand five hundred dollars (\$12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;
 - c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars (\$18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and
 - d. One hundred percent (100%), but not more than thirty-five thousand dollars (\$35,000), for taxable years beginning after December 31, 1997.
 - 3. As used in this paragraph:
 - a. "Distributions" includes, but is not limited to, any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;
 - b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and
 - c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;
- (j)
 - 1.
 - a. Exclude the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

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- b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.
 - 2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;
 - (k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;
 - (l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;
 - (m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;
 - (n) Exclude any capital gains income attributable to property taken by eminent domain;
 - (o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;
 - (p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;
 - (q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted; and
 - (r) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;
- (11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS

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141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

- (a) Any deduction allowed by the Internal Revenue Code for state or foreign taxes measured by gross or net income~~[-except that such taxes paid to foreign countries may be deducted];~~
- (b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);
- (c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and
- (d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;
- (b) Exclude all dividend income received after December 31, 1969;
- (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
- (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

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- (e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;
- (f) Include the amount calculated under KRS 141.205;
- (g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;
- (h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);
- (i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;
- (j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;
- (k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted; and
- (l) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

- (a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;
- (b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;
- (c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;
- (d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;
- (e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

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- (f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;
- (14)
- (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;
 - (b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;
 - (c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;
 - (d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and
 - (e) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;
- (15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

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- (16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;
- (17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;
- (18) "Nonresident" means any individual not a resident of this state;
- (19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;
- (20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;
- (21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;
- (22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;
- (23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;
- (24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
- (25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

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Part XVIII – Individual IncomeTax

Section 2. This Part is effective for taxable years beginning after December 31, 2004.

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Part XIX – Motor Vehicle Usage and Sales Tax Exemptions

BILL AS INTRODUCED

The Bill as Introduced contained no provisions relating to Motor Vehicle Usage and Sales Tax Exemptions.

HOUSE REPORT

The House Report contained no provisions relating to Motor Vehicle Usage and Sales Tax Exemptions.

SENATE REPORT

The Senate adds Part XIX, Motor Vehicle Usage and Sales Tax Exemptions language provision as follows:

"MOTOR VEHICLE USAGE AND SALES AND USE TAX EXEMPTIONS

Notwithstanding KRS 48.310, the following statutes are amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 138.470 is amended to read as follows:

There is expressly exempted from the tax imposed by KRS 138.460:

- (1) Motor vehicles sold to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions;
- (2) Motor vehicles sold to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;
- (3) Motor vehicles which have been previously registered and titled in any state or by the federal government when being sold or transferred to licensed motor vehicle dealers for resale. The motor vehicles shall not be leased, rented, or loaned to any person and shall be held for resale only;

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- (4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to nonresident members of the Armed Forces on duty in this Commonwealth under orders from the United States government;
- (5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine (9) persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;
- (6) Motor vehicles previously registered in Kentucky, transferred between husband and wife, parent and child, stepparent and stepchild, or grandparent and grandchild;
- (7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;
- (8) Motor vehicles transferred to a corporation from a proprietorship or limited liability company, to a limited liability company from a corporation or proprietorship, or from a corporation or limited liability company to a proprietorship, within six (6) months from the time that the business is incorporated, organized, or dissolved;
- (9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property, if the vehicles were previously registered in Kentucky;
- (10) Motor vehicles transferred between a subsidiary corporation and its parent corporation if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;

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Part XIX – Motor Vehicle Usage and Sales Tax Exemptions

- (11) Motor vehicles transferred between a limited liability company and any of its members, if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;
- (12) The interest of a partner in a motor vehicle when other interests are transferred to him;
- (13) Motor vehicles repossessed by a secured party who has a security interest in effect at the time of repossession and a repossession affidavit as required by KRS 186.045(6). The reposessor shall hold the vehicle for resale only and not for personal use, unless he has previously paid the motor vehicle usage tax on the vehicle;
- (14) Motor vehicles transferred to an insurance company to settle a claim. These vehicles shall be junked or held for resale only;
- (15) Motor carriers operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281;
- (16) Motor vehicles registered under KRS 186.050 that have a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater;
- (17)~~(16)~~ Farm trucks registered under KRS 186.050(4) that have a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater; and
- (18)~~(17)~~ In order to be eligible for the exemption established in subsections (16) and (17)~~(15) and (16)~~ of this section, motor vehicles shall be required to be registered at the appropriate range for the declared gross weight of the vehicle established in KRS 186.050(3)(b) and shall be prohibited from registering at a higher weight range. If a motor vehicle is initially registered in one (1) declared gross weight range and subsequently is registered at a declared gross weight range lower than forty-four thousand and one (44,001) pounds, the person registering the vehicle shall be required to pay the county clerk the usage tax due on the vehicle unless the person can provide written proof to the clerk that the tax has been previously paid.

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Part XIX – Motor Vehicle Usage and Sales Tax Exemptions

Section 2. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

- (1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;
- (2) Coal for the manufacture of electricity;
- (3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;
- (4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;
- (5) Poultry for use in breeding or egg production;
- (6) Farm work stock for use in farming operations;
- (7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

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Part XIX – Motor Vehicle Usage and Sales Tax Exemptions

- (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;
- (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;
- (10) Machinery for new and expanded industry;
- (11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;
- (12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;
- (13) Tombstones and other memorial grave markers;
- (14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (15) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

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The exemption shall apply but not be limited to vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(16) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:

- (a) Operate farm machinery as defined in subsection (11) of this section;
- (b) Operate on-farm grain or soybean drying facilities as defined in subsection (14) of this section;
- (c) Operate on-farm poultry or livestock facilities defined in subsection (15) of this section;
- (d) Operate on-farm ratite facilities defined in subsection (24) of this section;
- (e) Operate on-farm llama or alpaca facilities as defined in subsection (26) of this section; or
- (f) Operate on-farm dairy facilities;

(17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

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Part XIX – Motor Vehicle Usage and Sales Tax Exemptions

- (21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1994;
- (22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;
- (23) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;
- (24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:
- (a) Feed and feed additive s;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;
- (26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;

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- (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (27) Baling twine and baling wire for the baling of hay and straw;
- (28) Water sold to a person regularly engaged in the business of farming and used in the:
- (a) Production of crops;
 - (b) Production of milk for sale; or
 - (c) Raising and feeding of:
 - 1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or
 - 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
- (29) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

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(30) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:

- (a) Feed and feed additives;
- (b) Water;
- (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
- (d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquefied petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(31) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:

- (a) Feed and feed additives;
- (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
- (c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities; and

(32) (a) Repair or replacement parts for the direct operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire, provided the motor vehicle is licensed for use on the highway and its declared gross vehicle weight with any towed unit is forty-four thousand and one (44,001) pounds or greater. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter; and[-]

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Part XIX – Motor Vehicle Usage and Sales Tax Exemptions

- (b) Repair or replacement parts for the direct operation and maintenance of a motor vehicle operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281, or under similar authority granted by the United States Department of Transportation.
- (c) For the purposes of this subsection, "repair and replacement parts" means tires, brakes, engines, transmissions, drive trains, chassis, body parts, and their components. "Repair and replacement parts" shall not include fuel, machine oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential to the operation of the motor vehicle itself, except when sold as part of the assembled unit, such as cigarette lighters, radios, lighting fixtures not otherwise required by the manufacturer for operation of the vehicle, or tool or utility boxes.

Section 3. The provisions of this Part take effect August 1, 2005."

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Part XX – Public Projects Financing

BILL AS INTRODUCED

The Bill as Introduced contains no provision relating to the Public Projects Financing.

HOUSE REPORT

The House Report contains no provision relating to the Public Projects Financing.

SENATE REPORT

The Senate added the following language

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 58.180 is amended to read as follows:

- (1) (a) As used herein, the term "public project" shall have the same meaning as ascribed to such term by KRS 58.010, and the term "public project" shall include, inter alia, but not by way of limitation, public facilities such as sewers, sewage treatment works, water systems, streets, sidewalks and other public ways, both vehicular and pedestrian, parks and recreational and sports facilities, hospitals and health facilities, educational facilities, drainage and reclamation projects, jails, municipal buildings, public docks, wharves and port facilities, solid waste disposal facilities, pollution control systems, mass commuting and transport systems, industrial parks, courthouses and other public buildings, public parking and garage facilities, and other edifices, projects and like things and objects intended for governmental and public purposes.
- (b) As used herein, the term "governmental agency" shall mean any division of the Commonwealth which is a municipal corporation and political subdivision of the Commonwealth of Kentucky, or to which has been delegated the right to exercise part of the sovereign power of the Commonwealth.
- (2) Any governmental agency may create a nonprofit corporation pursuant to the provisions of KRS 273.161 to 273.390, inclusive, to act as the agency and instrumentality and the constituted authority of such governmental agency in the acquisition and financing of any public project which may be undertaken by such governmental agency pursuant to the provisions of Kentucky law and thus accomplish a public purpose of such governmental agency. Such corporation, upon direction of such governmental agency, shall be authorized to issue its bonds, notes or other obligations on behalf of such governmental agency for the acquisition and financing of

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Part XX – Public Projects Financing

one or more public projects on behalf of such governmental agency, and may pledge for the amortization of such bonds, notes or other obligations all revenues derived from the operation of such public project or public projects, including specifically all revenues derived from the leasing of such public project or public projects directly to the governmental agency upon whose behalf and upon whose direction such bonds, notes or other obligations are issued. Provided, however, that no bonds or other obligations shall be authorized under the provisions of this chapter for the construction or acquisition of telephone ~~or~~ gas ~~or electric~~ facilities.

(3) It shall be provided in any such financing (i) that upon the retirement and discharge of the bonds, notes or other obligations issued by such corporation at the direction of and on behalf of such governmental agency, title to the public project or public projects so acquired shall vest in such governmental agency; (ii) that in the event of default with respect to such bonds, notes or other obligations, the governmental agency shall have the exclusive option to acquire the public project or public projects for the amount required to discharge such bonds, notes or other obligations, and is provided a reasonable time to exercise such option; (iii) that the issuance of such bonds, notes or other obligations shall be directed by and approved by such governmental agency not more than sixty (60) days prior to the date of issue of such obligations; and (iv) that no bonds, notes or other obligations shall be issued by such corporation for and on behalf of such governmental agency except upon express direction of such governmental agency.

(4) Any governmental agency creating a corporation pursuant to this section to act for and on behalf of, and as the agency and instrumentality of, such governmental agency in the acquisition and financing of a public project or public projects shall, at all times either (i) exercise organizational control over such corporation by creating the corporation pursuant to this section, and retain authority at any and all times to alter or change the structure, organization, programs or activities of the corporation, including the power to terminate existence of the corporation, subject to any limitation on the impairment of contracts entered into by such corporation, or shall (ii) exercise supervisory control over such corporation as may be deemed proper by the governmental agency in the administration of the corporation's activities as a constituted authority of such governmental agency, and as may be required from time to time by federal law in order to qualify the corporation to issue bonds, notes or other obligations on behalf of the governmental agency.

(5) It shall be provided, inter alia, in the articles of incorporation of any such corporation and constituted authority created to act as the agency and instrumentality of a governmental agency and to finance public projects for such governmental agency on its behalf and thereby accomplish a public purpose of such governmental agency, (i) that any net revenues of such corporation beyond those

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necessary for retirement of indebtedness, or implementation of the public purpose or purposes of the corporation and the governmental agency shall not inure to the benefit of any person other than the governmental agency; (ii) that upon dissolution of the corporation, title to all property owned by such corporation shall vest in the governmental agency; and (iii) that the corporation shall be created and operated solely and only to accomplish one or more of the public purposes of the governmental agency and for the acquisition and financing of public projects for and on behalf of such governmental agency.

- (6) The governing body of such corporation shall consist solely and only of the following individuals:
 - (a) Public officials of the governmental agency as ex officio members; or
 - (b) Persons appointed by the governmental agency or by public officials of the governmental agency.

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Part XXI – Public Meetings and Records Exemptions

BILL AS INTRODUCED

The Bill as Introduced contains no provision relating to the Public Meetings and Records Exemptions.

HOUSE REPORT

The House Report contains no provision relating to the Public Meetings and Records Exemptions.

SENATE REPORT

The Senate added the following language.

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section. 1 KRS 61.878 is amended to read as follows:

- (1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction, except that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:
 - (a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;
 - (b) Records confidentially disclosed to an agency and compiled and maintained for scientific research. This exemption shall not, however, apply to records the disclosure or publication of which is directed by another statute;
 - (c)
 1. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records;
 2. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which are compiled and maintained:
 - a. In conjunction with an application for or the administration of a loan or grant;
 - b. In conjunction with an application for or the administration of assessments, incentives, inducements, and tax credits as described in KRS Chapter 154;

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Part XXI – Public Meetings and Records Exemptions

- c. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or
 - d. For the grant or review of a license to do business.
- 3. The exemptions provided for in subparagraphs 1. and 2. of this paragraph shall not apply to records the disclosure or publication of which is directed by another statute;
- (d) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. This exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (c) of this subsection;
- (e) Public records which are developed by an agency in conjunction with the regulation or supervision of financial institutions, including but not limited to, banks, savings and loan associations, and credit unions, which disclose the agency's internal examining or audit criteria and related analytical methods;
- (f) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired. The law of eminent domain shall not be affected by this provision;
- (g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the exam is given or if it is to be given again;
- (h) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action; however, records or information compiled and maintained by county attorneys or Commonwealth's attorneys pertaining to criminal investigations or criminal litigation shall be exempted from the provisions of KRS 61.870 to 61.884 and shall remain exempted after enforcement action, including litigation, is completed or a decision is made to

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Part XXI – Public Meetings and Records Exemptions

take no action. The exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884;

- (i) Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;
- (j) Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;
- (k) All public records or information the disclosure of which is prohibited by federal law or regulation;~~[-and]~~
- (l) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly; and
- (m) Public or private records, including books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, having historic, literary, artistic, or commemorative value accepted by the archivist of a public university, museum, or government depository from a donor or depositor other than a public agency. This exemption shall apply to the extent that nondisclosure is requested in writing by the donor or depositor of such records, but shall not apply to records the disclosure or publication of which is mandated by another statute or federal law.

(2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.

(3) No exemption in this section shall be construed to deny, abridge, or impede the right of a public agency employee, including university employees, an applicant for employment, or an eligible on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him. The records shall include, but not be limited to, work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, layoffs, disciplinary actions, examination scores, and preliminary and other supporting documentation. A public agency employee, including university employees, applicant, or eligible shall not have the right to inspect or to copy any examination or any documents relating to ongoing criminal or administrative investigations by an agency.

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Part XXI – Public Meetings and Records Exemptions

- (4) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the nonexcepted material available for examination.
- (5) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

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Part XXII – Phase II Tobacco Settlement Payments

BILL AS INTRODUCED

The Bill as Introduced contains no provision relating to the Phase II Tobacco Settlement Payments.

HOUSE REPORT

The House Report contains no provision relating to the Phase II Tobacco Settlement Payments.

SENATE REPORT

The Senate added PART XXII, by amending the statute that established the Kentucky Tobacco Settlement Trust Corporation. Language was added to this statute to "provide for the distribution of state funds appropriated in Parts I and II of this Act to the beneficiaries of the National Tobacco Growers Settlement Trust" in the manner in which previous Phase II distributions have taken place.

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Part XXIII – Property Tax Exemption Reciprocity

BILL AS INTRODUCED

The Bill as Introduced contains no provision relating to the Property Tax Exemption Reciprocity.

HOUSE REPORT

The House Report contains no provision relating to the Property Tax Exemption Reciprocity.

SENATE REPORT

The Senate adds Part XXIII, Property Tax Exemption Reciprocity, as follows:

"Notwithstanding KRS 48.310, the following statute is created to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

All real and personal property owned by another state or a political subdivision of another state that is used exclusively for public purposes shall be exempt from taxation under this chapter if a comparable exemption is provided in that state or political subdivision for property owned by the Commonwealth of Kentucky or its political subdivisions."